

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,

Plaintiff,

V.

**ADVANCED DISPOSAL
SERVICES ALABAMA L.L.C.,
d/b/a SUNFLOWER WASTE
L.L.C.,**

Defendant.

CIVIL ACTION NO.
3:07cv846-wkw

DEFENDANT ADVANCED DISPOSAL SERVICES ALABAMA L.L.C.,
d/b/a SUNFLOWER WASTE, L.L.C.'S EVIDENTIARY SUBMISSION
IN SUPPORT OF IT'S MOTION FOR SUMMARY JUDGMENT

Defendant Advanced Disposal Services Alabama, L.L.C., d/b/a Sunflower Waste, L.L.C., (“ADS” or “defendant”) submits the following evidentiary submission in support of its Motion for Summary Judgment:

- | | | |
|-----------|---|---|
| Exhibit A | - | Plaintiff's Deposition, with exhibits; |
| Exhibit B | - | Sherry Beasley's Deposition; |
| Exhibit C | - | Glenn Guest's Deposition, with exhibits; |
| Exhibit D | - | Glenn Guest's Declaration, with exhibits; |
| Exhibit E | - | Danny Futral's Deposition; |
| Exhibit F | - | Danny Futral's Declaration; |
| Exhibit G | - | Tom Davis' Declaration; |

- Exhibit H - Subpoenaed records from St. Louis MRO; and
Exhibit I - Defendant's supporting Brief.

Respectfully submitted,

s/J. Tobias Dykes

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ADVANCED DISPOSAL SERVICES
ALABAMA L.L.C., d/b/a/ SUNFLOWER
WASTE L.L.C.**

CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following:

James B. Douglas, Jr.
McNeal & Douglas, Attorneys at Law, L.L.C.
P.O. Box 1423
Auburn, Alabama 36831

This the 11th day of July, 2008.

s/ J. Tobias Dykes

J. Tobias Dykes

DEPOSITION OF ROBERT CANNON

April 10, 2008

Pages 1 through 125

PREPARED BY:

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ROBERT CANNON,
Plaintiff,

Vs. CIVIL ACTION NO.
3:07-CV-846-WKW

ADVANCED DISPOSAL SERVICES
ALABAMA, LLC, d/b/a SUNFLOWER
WASTE, LLC,
Defendant.

DEPOSITION OF ROBERT CANNON, taken pursuant
to stipulation and agreement before Haley A.
Phillips, Certified Court Reporter, ACCR # 151, and
Commissioner for the State of Alabama at Large, in
the Law Offices of McNeal & Douglas, 1710 Catherine
Court, Auburn, Alabama, on Thursday, April 10,
2008, commencing at approximately 10:05 a.m.

Page 3

1	DEFENDANT'S EXHIBIT INDEX (cont'd)	
2	5 Federal Drug Testing Custody Control Form	58
3		
4	6 Driver's application for employment	64
5	7 Acknowledgement of receipt of employee handbook	66
6	8 Drug free workplace policy	66
7	9 Collection form for urine analysis test	76
8	10 Results of DOT Controlled Substance Test	78
9	11 Results of DOT Controlled Substance Test	83
10	12 Drug screen by Kent V. Klinner, Jr., M.D.	85
11		
12	13 Final clearance for terminating employee	90
13	14 Employee disciplinary report	91
14	15 Alcohol and/or drug test notification	96
15	16 Charge of discrimination	97
16	17 Dismissal and notice of rights	99
17	18 Complaint	100
18	19 Fax to Ann Dora's	105
19	20 Plaintiff's initial disclosures	116
20		

Page 2

APPEARANCES

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ALSO PRESENT:

Mr. Glenn Guest

EXAMINATION INDEX
BY MR. DYKES 5

DEFENDANT'S EXHIBIT INDEX

1	Drug Test from Waste Management	8
2	Employee Disciplinary Report from Waste Management	8
3	Deposition Notice	13
4	Opelika Housing Authority Job Termination Verification	24

Page 4

STIPULATION

It is hereby stipulated and agreed by and between counsel representing the parties that the deposition of ROBERT CANNON is taken pursuant to the Federal Rules of Civil Procedure and that said deposition may be taken before Haley A. Phillips, Certified Court Reporter, ACCR # 151, and Commissioner for the State of Alabama at Large, without the formality of a commission, that objections to questions other than objections as to the form of the question need not be made at this time but may be reserved for a ruling at such time as the said deposition may be offered in evidence or used for any other purpose by either party provided for by the Statute.

It is further stipulated and agreed by and between counsel representing the parties in this case that the filing of said deposition is hereby waived and may be introduced at the trial of this case or used in any other manner by either party hereto provided for by the Statute regardless of the waiving of the filing of the same.

It is further stipulated and agreed by and

Page 5

1 between the parties hereto and the witness that the
2 signature of the witness to this deposition is
3 hereby waived.

4 * * * * *

5 ROBERT CANNON

6 The witness, after having first been duly
7 sworn to speak the truth, the whole truth and
8 nothing but the truth testified as follows:

9 EXAMINATION

10 BY MR. DYKES:

11 Q. Mr. Cannon, my name is Tobi Dykes. We
12 introduced ourselves a little while ago.
13 I'm an attorney for Advanced Disposal
14 Services, and I am representing them in a
15 lawsuit that you have filed against them.
16 And so I'm going to be asking you some
17 questions today about your lawsuit and your
18 employment with them and, you know, just
19 probably a broad range of topics. Has your
20 attorney told you kind of what goes on in a
21 deposition?

22 A. Yes, sir.

23 Q. Have you given a deposition before?

Page 7

1 A. No.

2 Q. Have you used any illegal drugs or cocaine
3 in the last two years?

4 A. No.

5 Q. I know we're here over a failed drug test
6 with Advanced Disposal Services, and I know
7 you're disputing that. But other than that
8 drug test, have you ever had another
9 positive on a drug test?

10 A. Yes.

11 Q. Where was that?

12 A. That was through the parole officer back
13 when in 2002.

14 Q. What was that positive for?

15 A. Marijuana, cocaine, alcohol.

16 Q. Any other positive drug test?

17 A. No.

18 Q. Did you take any drug -- It's my
19 understanding you worked for Waste
20 Management?

21 A. Yes.

22 Q. And did you take any drug test at Waste
23 Management?

Page 6

1 A. No.

2 Q. And you understand, you know, even though
3 we're not in court today that you have been
4 placed under oath and the testimony you
5 give today is the same, you know, as if you
6 were giving it in court?

7 A. Yes.

8 Q. Now, I'm going to be asking you a bunch of
9 questions. I'm not trying to trick you
10 with questions, but sometimes I don't ask
11 the best question. If I don't ask -- If I
12 ask you a question that you don't
13 understand or doesn't make sense, will you
14 tell me so that we -- I can ask you a
15 question that you understand that does make
16 sense?

17 A. Yes.

18 Q. Can I assume that if you answer a question
19 that you understood the question?

20 A. Yes.

21 Q. Have you taken any medications or alcohol
22 or drugs or anything that would keep you
23 from telling the truth today?

Page 8

1 A. Yes.

2 Q. Did you fail any of those?

3 A. No.

4 (Defendant's Exhibit 1 was marked
5 for identification.)

6 Q. I'm going to show you what I'm going to
7 mark as Plaintiff's Exhibit -- Defendant's
8 Exhibit 1, a drug report from Waste
9 Management. Mr. Cannon, have you seen that
10 before?

11 A. No, I haven't seen this one.

12 Q. Were you -- Were you discharged from Waste
13 Management, or were you -- or did you
14 resign?

15 A. Waste Management, they said lack of work is
16 what they told me.

17 (Defendant's Exhibit 2 was marked
18 for identification.)

19 Q. Okay. I'm going to mark as Defendant's
20 Exhibit 2 an employee discipline report
21 from Waste Management. Have you seen this
22 before, Mr. cannon?

23 A. No, I haven't seen this.

Page 9

1 Q. And did anybody from Waste Management tell
2 you that you had tested positive for drugs?
3 A. No.
4 Q. Did you take a drug test with Waste
5 Management in December of 2006?
6 A. No. I took one when I first went there.
7 Q. Okay. Looking back at Defendant's Exhibit
8 1, which is the drug testing report, this
9 shows that a drug -- that a sample was
10 collected on 12/19/2006. Do you deny that
11 you took a -- that a specimen of your urine
12 was collected on December 19, 2006?
13 A. I can't recall at this time when I took the
14 drug screen at Waste Management.
15 Q. Okay. Well, is this -- is your social
16 security number 420-88-2743?
17 A. That's correct.
18 Q. Is that your social security number on the
19 drug testing results in Defendant's Exhibit
20 1?
21 A. That's it.
22 Q. And is that your name, Robert Cannon, in
23 Defendant's Exhibit 1?

Page 10

1 A. That's it.
2 Q. And Waste Management was your employer at
3 that time; is that right?
4 A. Yes.
5 Q. And this -- Looking at Defendant's Exhibit
6 1, it shows a positive for cocaine; is that
7 right?
8 MR. DOUGLAS: You're asking him if
9 that's what the document
10 says?
11 MR. DYKES: If that's what the
12 document says.
13 A. You're asking me?
14 Q. Yes.
15 A. Oh, yes. That's what the document say.
16 Q. Have you taken any other drug tests since
17 the ones you took for Advanced Disposal
18 Services in January and February of 2007?
19 A. Repeat the question.
20 Q. I know you took drug tests at Advanced
21 Disposal in January of 2007 and in February
22 of 2007. Since those tests have you taken
23 any other drug tests?

Page 11

1 A. Yes.
2 Q. Where have you done that?
3 A. At Staffing Solutions when I went to work
4 for them.
5 Q. What was the result of that test?
6 A. Negative.
7 Q. Any place else that you've taken a drug
8 test since February of 2007?
9 A. No.
10 Q. And I want to go back to Defendant's
11 Exhibit 1, the results of the drug test.
12 Had you used cocaine in December of 2006?
13 A. No.
14 Q. Any idea why you would have a drug test
15 that shows that you did?
16 A. No idea. I have no idea.
17 Q. I just want to make sure I understand.
18 This is the first time that you're aware --
19 that you have seen the failed drug test,
20 Defendant's Exhibit 1?
21 A. Yes.
22 Q. And it's the first time you've been told
23 that Waste Management has indicated that

Page 12

1 they discharged you for failing a drug test
2 which is indicated on Defendant's Exhibit
3 2?
4 A. Yes.
5 Q. Did you seek unemployment when your
6 employment with Waste Management ended?
7 A. No.
8 Q. Do you know if any future employers have
9 contacted Waste Management about your
10 employment?
11 A. No.
12 Q. Have you given them Waste Management as --
13 On applications for employment, have you
14 given Waste Management as a place where you
15 have worked?
16 A. Say again.
17 Q. I know on your application -- and we'll
18 talk about your application with Advanced
19 Disposal -- you listed Waste Management as
20 a prior employer. On applications since
21 you left Waste Management, have you listed
22 Waste Management -- Let me start that
23 question over.

Page 13	Page 15
<p>1 Since you left Advanced Disposal and</p> <p>2 have applied with other employers, have you</p> <p>3 listed Waste Management as a place you have</p> <p>4 worked?</p> <p>5 A. I can't recall at this time.</p> <p>6 Q. When is the last time you used cocaine?</p> <p>7 A. 2002.</p> <p>8 Q. And I realize this is kind of jumping</p> <p>9 around a little bit, but can you just state</p> <p>10 your name for the Record.</p> <p>11 A. Robert Cannon.</p> <p>12 Q. Do you have any nicknames you go by?</p> <p>13 A. Red.</p> <p>14 Q. Have you ever gone by any other names?</p> <p>15 A. No.</p> <p>16 Q. Any other -- Any aliases?</p> <p>17 A. No.</p> <p>18 (Defendant's Exhibit 3 was marked</p> <p>19 for identification.)</p> <p>20 Q. I'm going to mark as Defendant's Exhibit 3</p> <p>21 the deposition notice that I sent your</p> <p>22 attorney. Have you seen this before?</p> <p>23 A. What was the question?</p>	<p>1 haven't given your attorney that would</p> <p>2 support your claims against Advanced</p> <p>3 Disposal Services?</p> <p>4 A. No, not that I can recall.</p> <p>5 Q. I mean, did you take any notes while you</p> <p>6 worked at Advanced Disposal Services about</p> <p>7 what was going on?</p> <p>8 A. No.</p> <p>9 Q. Do you keep a calendar where you jotted</p> <p>10 down kind of what you did during the day</p> <p>11 while you worked for Advanced Disposal</p> <p>12 Services?</p> <p>13 A. Explain to me what you mean.</p> <p>14 Q. Well, sometimes -- I've got a calendar and</p> <p>15 I'll jot down various things that happen</p> <p>16 and, you know, keep up with what I'm doing</p> <p>17 on my calendar. Did you do anything like</p> <p>18 that about what was going on while you were</p> <p>19 working for Advanced Disposal Services?</p> <p>20 A. No.</p> <p>21 Q. Did you take any statements or write down</p> <p>22 notes from any conversations with anybody</p> <p>23 who you talked to at Advanced Disposal</p>
Page 14	Page 16
<p>1 Q. Have you seen that before -- Defendant's</p> <p>2 Exhibit 3 before?</p> <p>3 A. No.</p> <p>4 Q. Did you bring any documents with you to the</p> <p>5 deposition today?</p> <p>6 A. No.</p> <p>7 Q. Your attorney has shown me this morning --</p> <p>8 Do you remember -- There was a -- There</p> <p>9 were three drug tests, the decision of --</p> <p>10 unemployment decision. Was there any</p> <p>11 other --</p> <p>12 MR. DOUGLAS: No, I think that's</p> <p>13 it.</p> <p>14 Q. -- documents that he has produced as</p> <p>15 supporting your claims in this lawsuit.</p> <p>16 Have you got any documents other than what</p> <p>17 your attorney has given me that you believe</p> <p>18 support your claims against Advanced</p> <p>19 Disposal Services?</p> <p>20 A. No, not at this time. I can't recall at</p> <p>21 this time.</p> <p>22 Q. Well, I guess what -- anything you can</p> <p>23 think of that might be out there that you</p>	<p>1 Services?</p> <p>2 A. Saying some employees? I mean, I don't</p> <p>3 quite understand the question.</p> <p>4 Q. Yeah. I mean, did you talk to any</p> <p>5 employees there and take notes of what</p> <p>6 y'all were talking about?</p> <p>7 A. Oh, I talked to some employees, but I</p> <p>8 didn't take notes.</p> <p>9 Q. Did you record any conversations with</p> <p>10 anybody from Advanced?</p> <p>11 A. No.</p> <p>12 Q. Have you got any audio recordings of</p> <p>13 conversations that relate to this lawsuit?</p> <p>14 A. I mean, what recordings? What's --</p> <p>15 Q. I mean, have you called somebody on the</p> <p>16 phone and asked them questions about your</p> <p>17 employment with Advanced and recorded the</p> <p>18 conversation or taped any conversations</p> <p>19 about -- about Advanced or your allegations</p> <p>20 in this complaint?</p> <p>21 A. Have I recorded any of it?</p> <p>22 Q. Yeah.</p> <p>23 A. With any Advanced Disposal employees?</p>

Page 17

1 Q. Right.
 2 A. No.
 3 Q. And I know there was an employment hearing
 4 that was taped. But other than that, are
 5 you aware of any other recordings that have
 6 anything to do with your employment with
 7 Advanced Disposal or your claims against
 8 Advanced Disposal?
 9 A. No.
 10 Q. And I think one of the -- I didn't mention
 11 this. In the list of documents was what
 12 was produced to Ann Dora's. Is that
 13 something that you had produced as well?
 14 MR. DOUGLAS: Yes.
 15 Q. Which I believe there was a -- paperwork
 16 that was submitted to Ann Dora's from
 17 Sherry Beasley that I -- that you have
 18 alleged in your complaint was -- or
 19 alleging that that was slander. Are there
 20 any other documents that you believe --
 21 that you are claiming Advanced Disposal has
 22 done that is slanderous or that you're
 23 complaining about in this complaint or this

Page 18

1 lawsuit?
 2 A. Any other documents beside that document?
 3 Q. Besides that one.
 4 A. No.
 5 Q. And -- Well, I'll ask you some questions
 6 about that document as we're going. I just
 7 want to make sure there's not another
 8 document out there that you're saying
 9 Advanced Disposal sent out that was
 10 slanderous to you. So I'm right, it's just
 11 that one document?
 12 A. Right.
 13 Q. What did you do to get ready for the
 14 deposition today?
 15 A. What did I do?
 16 MR. DOUGLAS: I object to the form
 17 of that question.
 18 Q. And I don't want to know anything that you
 19 talked to your attorney about. But other
 20 than talking to your attorney, did you talk
 21 to anybody else to get ready for your
 22 deposition?
 23 THE WITNESS: You say you object

Page 19

1 to it?
 2 MR. DOUGLAS: You can answer the
 3 question. Don't tell him
 4 anything you and I talked
 5 about.
 6 THE WITNESS: Oh.
 7 MR. DYKES: Yeah.
 8 MR. DOUGLAS: He wants to know if
 9 you talked to anybody other
 10 than me in order to get ready
 11 today to take this deposition.
 12 THE WITNESS: I mean, talk
 13 to them. What do you mean?
 14 Explain the --
 15 MR. DOUGLAS: Well, maybe you can
 16 ask the question again.
 17 THE WITNESS: Yeah. I mean ...
 18 Q. I'm just trying to figure out who all you
 19 talked to to prepare for your deposition
 20 today. And I don't want to know anything
 21 you talked about with your lawyer. But
 22 other than that, did you talk to anybody
 23 else about coming to take your -- have your

Page 20

1 deposition taken?
 2 A. Yes, sir. Uh-huh (positive response).
 3 Q. Who is that?
 4 A. My wife know I was coming to have my
 5 deposition and my cousin and a couple of
 6 friends.
 7 Q. Who is your cousin?
 8 A. Willie Summers.
 9 Q. Does he work for Advanced Disposal?
 10 A. Yes.
 11 Q. Which friends did you talk to?
 12 A. Which friends?
 13 Q. Yeah.
 14 A. A friend of mine, Reuben Lowder, and my
 15 cousin, Elaine Frazier.
 16 Q. Anybody else?
 17 A. No.
 18 Q. Did Reuben Lowder work for Advanced
 19 Disposal?
 20 A. He used to.
 21 Q. How about Elaine Frazier, did she work for
 22 Advanced Disposal?
 23 A. She's just my cousin.

Page 21

1 Q. Okay. What did you talk to Willie Summers
2 about in regards to your deposition?
3 A. Just told him I was coming to have my
4 hearing today.
5 Q. Do you think he has anything that would
6 support your claims against Advanced
7 Disposal?
8 A. Repeat the question.
9 Q. Do you think he has any -- Does he have any
10 knowledge that you believe supports your
11 claims against Advanced Disposal?
12 A. Yes.
13 Q. What? What knowledge do you think he has?
14 A. He was my helper on the truck.
15 Q. What do you think he would say to help your
16 claims?
17 A. The truth. The truth of what ...
18 Q. Anything specific related to your claim of
19 race discrimination or fraud that you
20 believe he has knowledge about?
21 A. Yes.
22 Q. What -- Tell me what.
23 A. Well, I mean, he knew of the -- The day I

Page 22

1 got terminated, he knew of that.
2 Q. Okay. Anything else that he would know of?
3 A. Well, he would know about the drug screens
4 because, I mean, he seen the paperwork.
5 Q. Anything else?
6 A. Not at this time that I can recall.
7 Q. Do you think Reuben Lowder has any
8 knowledge that would be helpful to your
9 lawsuit?
10 A. No more than what I've told him.
11 Q. So just everything that he knows about the
12 lawsuit is what you've told him; is that
13 right?
14 A. Yes.
15 Q. Does Elaine Frazier have any -- Do you
16 think -- Do you believe that Elaine Frazier
17 has any knowledge that you would use to
18 support your claims against Advanced
19 Disposal?
20 A. No.
21 Q. Did you review any documents to get ready
22 for your deposition today?
23 A. Did I review any ...

Page 23

1 Q. Did you look at any paperwork to get ready
2 for your deposition?
3 A. My paperwork, yes.
4 Q. What did you look at?
5 A. The papers I got from termination and stuff
6 like that.
7 Q. Are those the papers you've given your
8 lawyer?
9 A. Yes.
10 MR. DYKES: Jim, would you just
11 show -- will you show him what
12 you showed me this morning
13 just to make sure there's
14 nothing else?
15 MR. DOUGLAS: Sure.
16 MR. DYKES: Do you mind if I make
17 a copy of those and just make
18 them as an exhibit --
19 MR. DOUGLAS: No.
20 MR. DYKES: -- just so that it's
21 clear as to what documents
22 we've been talking about?
23 MR. DOUGLAS: Not at all.

Page 24

1 (Brief recess was taken.)
2
3 (Defendant's Exhibit 4 was marked
4 for identification.)
5 MR. DYKES: I'm going to mark as
6 Defendant's Exhibit 4 the
7 documents that Mr. Cannon's
8 attorney has provided me as
9 the documents that were
10 reviewed in preparation for
11 the deposition which are an
12 Opelika Housing job
13 termination verification, a
14 drug testing custody and
15 control form with a date
16 2/12/07, a decision of
17 unemployment compensation
18 claim, drug testing results
19 with a verification date of
20 2/2/07, previous employer
21 information request completed
22 by Sherry Beasley dated
23 4/2/07, drug test -- a drug

Page 25

1 testing custody and control
 2 form that appears to have a
 3 date of 2/12/07, a drug test
 4 and result from Kent
 5 Klimner --
 6 MR. DOUGLAS: It's Klinner.
 7 MR. DYKES: Klinner.
 8 -- results of a DOT
 9 controlled substance test with
 10 a verification date of
 11 2/14/07, and then a statement
 12 of claim of unlawful detainer
 13 with a -- filed June 7, 2007.
 14 Q. Other than these documents, Mr. Cannon, did
 15 you review anything else in preparation for
 16 your deposition?
 17 MR. DOUGLAS: Those are the
 18 documents you just looked at.
 19 THE WITNESS: Oh.
 20 A. No.
 21 Q. Mr. Cannon, what's your social security
 22 number?
 23 A. 420-88-2743.

Page 26

1 Q. Your date of birth?
 2 A. 12/5/59.
 3 Q. Do you have a driver's license?
 4 A. Yes.
 5 Q. What's your driver's license number?
 6 A. 4492920.
 7 Q. Have you ever had your driver's license
 8 suspended?
 9 A. Yes.
 10 Q. Yes?
 11 A. Yes.
 12 Q. When was that?
 13 A. 1990 or '91. Somewhere back in there.
 14 Q. What was it suspended for?
 15 A. DUI.
 16 Q. Other than 1991, has it been suspended on
 17 any other occasions?
 18 A. Not that I can recall.
 19 Q. Has it ever been -- Has your driver's
 20 license ever been revoked?
 21 A. Revoked. What's that -- What do you mean
 22 by revoked?
 23 Q. Okay. Well, the only time you remember

Page 27

1 anything happening to your driver's license
 2 being the 1991 DUI?
 3 A. Yes.
 4 Q. Where are you living now?
 5 A. In Opelika.
 6 Q. What's your address?
 7 A. 426-B Toomer Court.
 8 Q. How long have you lived there?
 9 A. Two years.
 10 Q. Where did you live prior to that?
 11 A. 1001 Ward Place, Lot 16, Opelika.
 12 Q. How long did you live there at one --
 13 A. About 13, 14 years.
 14 Q. Have you ever lived anywhere outside of
 15 Opelika?
 16 A. Yeah. I lived in Auburn when I was young.
 17 Q. Okay. No place outside of Auburn, Opelika
 18 area?
 19 A. No.
 20 Q. Who lives with you at -- Or does anybody
 21 live with you at 426-B Toomer Court?
 22 A. My wife and three kids.
 23 Q. What's your wife's name?

Page 28

1 A. Jennifer.
 2 Q. How long have y'all been married?
 3 A. Two and a half years.
 4 Q. What are your -- the children's names?
 5 A. Carlos Cox, Myracle Hicks.
 6 Q. Can you --
 7 A. Myracle Hicks. Tiana Cannon.
 8 Q. How old is Carlos?
 9 A. 11.
 10 Q. Myracle?
 11 A. Five.
 12 Q. Tiana?
 13 A. Two.
 14 Q. Are these your children or are they
 15 Jennifer's children?
 16 A. The last one is mine.
 17 Q. Okay. Have you been married before other
 18 than to Jennifer?
 19 A. No.
 20 Q. Other than Tiana, do you have any other
 21 children?
 22 A. No.
 23 Q. What is your wife, Jennifer's, maiden name?

Page 29

1 A. Cox.
 2 Q. Was she previously married?
 3 A. No.
 4 Q. Does Jennifer work anywhere?
 5 A. Yes.
 6 Q. Where does she work?
 7 A. Briggs & Stratton.
 8 Q. How long has she worked there?
 9 A. Over nine years I know.
 10 Q. What does she do?
 11 A. I don't know. She work on the line is all
 12 I know.
 13 Q. Have you got any other family living in the
 14 Auburn, Opelika area?
 15 A. I have a brother that lives in Opelika.
 16 Q. What's his name?
 17 A. David Cannon.
 18 Q. Where does she work?
 19 A. He drives trucks.
 20 Q. Who does he drive trucks for?
 21 A. I don't know. He -- I don't know exactly.
 22 He over the road, back and forth.
 23 Q. Has he ever worked for Advanced Disposal?

Page 30

1 A. No.
 2 Q. Does he have any knowledge of your claims
 3 against Advanced Disposal?
 4 A. He know I filed the claim.
 5 Q. Okay. Would everything he knows about your
 6 lawsuit be from what you've told him?
 7 A. Yes.
 8 Q. Any other family in the Auburn, Opelika
 9 area?
 10 A. Nothing but distant cousins and stuff like
 11 that. No immediate family.
 12 Q. Have you got any immediate family, I guess,
 13 in Alabama?
 14 A. No.
 15 Q. And the reason I ask is, if this case goes
 16 to a jury, I just need to know who your
 17 family is in the event they're called onto
 18 a jury, so ...
 19 A. Right.
 20 Q. When you say distant cousins, how distant?
 21 A. Like second, third cousin. Stuff like
 22 that. Great aunts and stuff.
 23 Q. Do you see them regularly?

Page 31

1 A. No.
 2 Q. Instead of going through them with you
 3 today, would you -- the names that you can
 4 remember of your distant -- of your cousins
 5 and great aunts, can you make a list and
 6 give that to your attorney if you can
 7 remember any of their names?
 8 A. Yes.
 9 Q. Do you go to church?
 10 A. Yes.
 11 Q. Where do you go to church?
 12 A. New Poplar Springs in Dadeville.
 13 Q. How long have you been going there?
 14 A. Since I met my wife.
 15 Q. How long ago did you meet your wife?
 16 A. Three years ago.
 17 Q. Are you a member of any social clubs or
 18 hunting clubs or anything?
 19 A. No.
 20 Q. Mr. Cannon, have you ever been arrested or
 21 convicted of a crime?
 22 A. Yes.
 23 Q. And I know from your interrogatories what

Page 32

1 they are, but let's just kind of walk
 2 through them. When was the first time you
 3 were arrested?
 4 A. I can't recall at this time. I was young
 5 the first time I was arrested.
 6 Q. In your interrogatory responses, there was
 7 a 1978 assault. Do you remember that?
 8 A. Yes.
 9 Q. What -- Where was that?
 10 A. Opelika.
 11 Q. I know you were arrested. Were you
 12 convicted in regards to that assault in
 13 1978?
 14 A. Yes.
 15 Q. What was the conviction for?
 16 A. Attempted robbery.
 17 Q. Was there a trial or was there a plea?
 18 A. A plea.
 19 Q. What was the sentence?
 20 A. Ten years.
 21 Q. Did -- How much time did you serve?
 22 A. Over two years. I don't know exactly.
 23 Q. Where were you in prison?

Page 33

1 A. Frank Lee Youth Center.
 2 Q. How old were you at the time?
 3 A. 17.
 4 MR. DOUGLAS: Was that a juvenile
 5 conviction or a conviction as
 6 an adult?
 7 THE WITNESS: It wasn't -- They
 8 made it adult. Yes.
 9 MR. DOUGLAS: Okay. I just wanted
 10 to be clear because the name
 11 of the facility sounds like
 12 it. I apologize.
 13 MR. DYKES: Oh, no. No. Because
 14 that was going to be my next
 15 question.
 16 Q. Were you on probation when you got out?
 17 A. Parole, yes.
 18 Q. How long were you on parole?
 19 A. It wasn't a year. I can't remember exactly
 20 how many months, but it wasn't even a year.
 21 Q. Were you arrested again after you got out
 22 of jail for this -- for the attempted
 23 robbery?

Page 34

1 A. Was I arrested for attempted robbery
 2 again?
 3 Q. No. Were you arrested again for
 4 anything -- for something else?
 5 A. Yes.
 6 Q. Tell me about that.
 7 A. It was third degree robbery.
 8 Q. Where was that?
 9 A. Auburn.
 10 Q. When was that?
 11 A. '82 or '83. I can't remember exactly.
 12 Q. Were you convicted for that?
 13 A. Yes.
 14 Q. Was there a trial or was there a plea?
 15 A. Plea.
 16 Q. What was the sentence?
 17 A. Five years.
 18 Q. Did you serve any time?
 19 A. Yes.
 20 Q. How much?
 21 A. A year and a half, I believe.
 22 Q. Were you on parole when you got out?
 23 A. Yes.

Page 35

1 Q. How long was that parole?
 2 A. Two months.
 3 Q. Were you arrested again after that?
 4 A. Yes.
 5 Q. When was that?
 6 A. 1986.
 7 Q. What was that for?
 8 A. Second degree theft.
 9 Q. Were you convicted for that?
 10 A. Yes.
 11 Q. Was that a plea, or was there a trial?
 12 A. A trial.
 13 Q. What was the sentence?
 14 A. 25 years.
 15 Q. How long did you serve?
 16 A. Two years and -- Right at two and a half
 17 years.
 18 Q. When you got out, were you on parole?
 19 A. Yes.
 20 Q. How long were you on parole?
 21 A. I'm still on it now.
 22 Q. What are the terms of the parole?
 23 A. What do you mean?

Page 36

1 Q. Well, are there any restrictions on what
 2 you can and can't do?
 3 A. Yes.
 4 Q. What are those restrictions?
 5 A. I'm not to commit another felony, not to
 6 fail drug screens.
 7 Q. What happens if you fail a drug screen?
 8 A. I go back.
 9 Q. Do they know that you were discharged from
 10 Advanced Disposal for failing a drug
 11 screen?
 12 A. Yes.
 13 Q. Did they tell you why they didn't send you
 14 back to prison?
 15 A. Because I wasn't -- didn't have a positive
 16 urine.
 17 Q. Did you show your parole officer the drug
 18 test results?
 19 A. Yes.
 20 Q. Does the outcome of this litigation and
 21 your challenge of the drug test have
 22 anything -- any influence on whether or not
 23 you go back to prison?

Page 37

1 A. Would you repeat that?
 2 Q. I guess --
 3 MR. DOUGLAS: I object to the form
 4 of the question. There's no
 5 way he could -- Never mind. I
 6 object to the form of the
 7 question. Go ahead.
 8 Q. Has your parole officer told you -- Did
 9 your parole officer tell you you needed to
 10 challenge the drug test?
 11 A. Did -- Tell me I need to challenge my drug
 12 test?
 13 Q. From Advanced Disposal.
 14 A. No.
 15 Q. Did you talk to your parole officer about
 16 the lawsuit?
 17 A. Yes.
 18 Q. What have you talked to your parole officer
 19 about in regards to the lawsuit?
 20 A. I just told her I was filing an action
 21 against them because I wasn't dirty.
 22 Q. What did the parole officer tell you in
 23 response to that?

Page 38

1 A. I can't recall what she said.
 2 Q. Does the parole officer know about the drug
 3 test from Waste Management from December of
 4 2006?
 5 A. No.
 6 Q. If they knew that -- Would you be subject
 7 to going back to prison if they knew that
 8 you had failed a drug test in December of
 9 2006?
 10 A. Wait a minute. What you --
 11 MR. DOUGLAS: Are you asking him
 12 if he had tested with the
 13 parole officer or if they had
 14 known that an employer had
 15 tested?
 16 MR. DYKES: Right.
 17 MR. DOUGLAS: I mean, the question
 18 is very unclear.
 19 MR. DYKES: Okay.
 20 Q. With your drug tests where that would
 21 subject you to go back to prison, are those
 22 drug tests that are given to you by your
 23 parole officer or do drug tests given to

Page 39

1 you by employers count into that as well?
 2 A. If I lose a job for a drug screen, is that
 3 what you're saying?
 4 Q. Yeah.
 5 A. I couldn't say what she'll do. I don't
 6 know. I can't say. I can't say.
 7 Q. But if you fail a drug test that's given to
 8 you by the parole officer, then you go back
 9 to prison for sure?
 10 A. Yes.
 11 Q. But in terms of if you fail a drug test
 12 given to you by an employer, you don't know
 13 what result that would be?
 14 A. No.
 15 Q. Have you been arrested since you were
 16 released from your conviction for the
 17 second degree theft?
 18 A. Yes.
 19 Q. Tell me about that.
 20 A. The repo guy came to my house and tried to
 21 repo my car, and me and him had some words
 22 out there and he put me in jail for
 23 harassment.

Page 40

1 Q. When was that?
 2 A. August of last year.
 3 Q. Were any charges brought?
 4 A. Yes. He put me in jail for harassment.
 5 Q. Harassment. Okay.
 6 What was the result of those charges?
 7 A. I was found guilty, and I appealed it to
 8 the Justice Center and it was thrown out
 9 down there.
 10 Q. Who found you guilty?
 11 A. Judge Wilkes.
 12 MR. DOUGLAS: Opelika Municipal
 13 Court.
 14 THE WITNESS: Opelika. Yeah,
 15 Opelika court.
 16 MR. DOUGLAS: And you appealed to
 17 Circuit Court?
 18 THE WITNESS: To Circuit Court.
 19 Right.
 20 Q. Was it the judge or a jury that heard the
 21 case?
 22 A. A judge.
 23 Q. Judge. Okay.

Page 41	Page 43
<p>1 Any other arrests since you got out of</p> <p>2 prison the last time?</p> <p>3 A. None that I can recall.</p> <p>4 Q. Were you arrested for a DUI in 1999?</p> <p>5 A. I might have. I don't know. I don't</p> <p>6 know. Might have. I don't recall.</p> <p>7 Q. I know you told me earlier that you had</p> <p>8 been arrested for a DUI in 1991.</p> <p>9 A. Right.</p> <p>10 Q. Have you been arrested for a DUI on any</p> <p>11 other occasions?</p> <p>12 A. I can't say at this time. I might have</p> <p>13 were. I don't know.</p> <p>14 Q. Any other arrests or convictions that we</p> <p>15 haven't talked about?</p> <p>16 A. None as I can recall.</p> <p>17 Q. Any traffic violations?</p> <p>18 A. Yeah. I had run the stop sign.</p> <p>19 Q. When was that?</p> <p>20 A. It was last year. I don't remember</p> <p>21 exactly, but it was last year.</p> <p>22 Q. Any other traffic ...</p> <p>23 A. Expired tag one time.</p>	<p>1 \$5,000.</p> <p>2 MR. DOUGLAS: Robert, if you don't</p> <p>3 know the exact amount, you</p> <p>4 don't have to guess for him.</p> <p>5 THE WITNESS: Okay.</p> <p>6 MR. DOUGLAS: It seems like he may</p> <p>7 have the information. So if</p> <p>8 you know, tell him. If you</p> <p>9 don't know ... I don't</p> <p>10 know is a fine answer. You</p> <p>11 don't -- This is not a memory</p> <p>12 test. You don't have to have</p> <p>13 the exact number.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. DYKES: No.</p> <p>16 Q. Have you got a payment plan worked out to</p> <p>17 make the payments back or to pay off the</p> <p>18 judgment, I guess?</p> <p>19 A. Yes.</p> <p>20 Q. Any other actions been brought against you?</p> <p>21 A. No.</p> <p>22 Q. Do you remember any -- an action being</p> <p>23 brought against you by the Opelika Housing</p>
Page 42	Page 44
<p>1 Q. Any arrests for traffic violations, or were</p> <p>2 those just fines?</p> <p>3 A. Fine.</p> <p>4 Q. I know you filed this lawsuit against</p> <p>5 Advanced Disposal. Have you filed any</p> <p>6 other lawsuits?</p> <p>7 A. No.</p> <p>8 Q. Have you had any lawsuits filed against</p> <p>9 you?</p> <p>10 A. Yes.</p> <p>11 Q. Tell me about those.</p> <p>12 A. A loan company filed one against me for a</p> <p>13 loan did.</p> <p>14 Q. Was that a consolidated loan recovery?</p> <p>15 A. Yes.</p> <p>16 Q. When was that?</p> <p>17 A. They filed it last year. They filed it</p> <p>18 last year.</p> <p>19 Q. Is that still going on?</p> <p>20 A. No. They entered the judgment against me.</p> <p>21 Q. What was the judgment? What was the amount</p> <p>22 of it?</p> <p>23 A. I don't know the exact. It was over</p>	<p>1 Authority?</p> <p>2 A. Yes.</p> <p>3 Q. Tell me about that.</p> <p>4 A. Okay. That's when you fall behind on your</p> <p>5 rent, they take action against you. But</p> <p>6 once you catch it up and pay it, they drops</p> <p>7 it.</p> <p>8 Q. And you've caught up on your rent, so it's</p> <p>9 been dropped?</p> <p>10 A. Yes.</p> <p>11 Q. Was a lawsuit brought by Big Al's Check</p> <p>12 Cashing?</p> <p>13 A. I'm not aware of it.</p> <p>14 Q. Not aware of that. Okay.</p> <p>15 How about one by the East Alabama</p> <p>16 Medical Center?</p> <p>17 A. I'm not aware of that one.</p> <p>18 Q. Do you know a Lisa Powell?</p> <p>19 A. No.</p> <p>20 Q. Other than the times you would have been in</p> <p>21 court with your -- with the arrests and</p> <p>22 convictions and with the lawsuits we've</p> <p>23 talked about, have you been a witness or in</p>

Page 45

1 court for any other reasons?
 2 A. No.
 3 Q. Other than the EEOC charge that you filed
 4 against Advanced Disposal, have you filed
 5 any other EEOC charges?
 6 A. No.
 7 Q. Have you ever filed a claim for Social
 8 Security Disability?
 9 A. No.
 10 Q. Ever filed for bankruptcy?
 11 A. Yes.
 12 Q. When was that?
 13 A. I don't know the exact date.
 14 Q. Is that bankruptcy still pending or has it
 15 been resolved?
 16 A. It's been dismissed.
 17 Q. Any other bankruptcies other than the one
 18 we just talked about?
 19 A. No.
 20 Q. Have your wages ever been garnished?
 21 A. No.
 22 Q. And we've been talking a little bit about
 23 your unemployment -- your claim for

Page 46

1 unemployment benefits that you had with
 2 Advanced Disposal. Have you had any other
 3 claims for unemployment benefits?
 4 A. Yes.
 5 Q. When was that?
 6 A. I don't remember exactly.
 7 Q. Do you remember the company?
 8 A. No.
 9 Q. Have you ever had a workers' compensation
 10 claim?
 11 A. No.
 12 Q. Where did you go to high school?
 13 A. Opelika.
 14 Q. Did you graduate?
 15 A. No.
 16 Q. Did you get a GED?
 17 A. Yes.
 18 Q. When did you get your GED?
 19 A. 1978.
 20 Q. Did you go to college?
 21 A. No.
 22 Q. Other than training you might have gotten
 23 with an employer, have you had any other

Page 47

1 type of training or classes or education?
 2 A. No.
 3 Q. Do you have a CDL license?
 4 A. Yes.
 5 Q. When did you get that?
 6 A. 2000.
 7 Q. Has that license ever been suspended or
 8 revoked?
 9 A. No.
 10 Q. Are you driving trucks now?
 11 A. No.
 12 Q. I want to ask you some questions about
 13 where all you worked prior to coming to
 14 Advanced Disposal Services. From your
 15 interrogatory responses, it looks like your
 16 first job was with H & H Logging back in
 17 February of 1980 --
 18 A. Right.
 19 Q. -- is that right?
 20 A. Yes.
 21 Q. Where is H & H Logging?
 22 A. It was H & W.
 23 Q. H & W. I'm sorry.

Page 48

1 A. They're out of business. They used to be
 2 on Lafayette Parkway in Opelika. They went
 3 out of business.
 4 Q. What did you do for them?
 5 A. I, like, run errands, just work around the
 6 shop, around the yard. Laborer.
 7 Q. How long did you work there?
 8 A. I don't know exactly.
 9 Q. Was it during the time while you were, I
 10 guess -- When you went to prison, you come
 11 out and go back to work there; is that --
 12 A. Right. Yes.
 13 Q. Did your employment there end when they
 14 were sold?
 15 A. The guy that owned the place, he -- It
 16 ended before then. But he had another
 17 business too, and I sill worked for him.
 18 Q. What was the other business?
 19 A. Firewood. Selling firewood. Treated wood
 20 and firewood.
 21 Q. Do you know what the name of that was?
 22 A. It was Fleming Wood Products.
 23 Q. How long did you work for Fleming?

Page 49

1 A. Off and on over 20 years.
2 Q. While you worked for H & W, did you ever --
3 were you drug tested there?
4 A. No.
5 Q. Did you ever feel like you were being
6 discriminated against working for H & W?
7 A. No.
8 Q. Did you use illegal drugs while you worked
9 there?
10 A. No.
11 Q. How about while you worked for Fleming Wood
12 Products? Did you ever feel like you were
13 being discriminated against?
14 A. No.
15 Q. Did you ever have any -- Did you take any
16 drug tests working for Fleming Wood
17 Products?
18 A. No.
19 Q. Were you using illegal drugs during that
20 time period?
21 A. No.
22 Q. Where did you go to work after H & W
23 Logging?

Page 50

1 A. I can't remember that.
2 Q. Did you ever work at a place called Lester
3 Mill?
4 A. Oh, yes.
5 Q. Do you know if that was after you had
6 stopped working at H & W Logging?
7 A. Yes.
8 Q. What did you do for Lester Mill?
9 A. I was a workman.
10 Q. What does a workman do?
11 A. Put the -- Pulling the looms to put the
12 yarn in the looms.
13 Q. Not driving trucks?
14 A. No.
15 Q. Were you -- Did you take drug tests while
16 you worked for Lester Mill?
17 A. Yes.
18 Q. How often?
19 A. I took one when I went there. I mean,
20 that's ...
21 Q. A preemployment drug test?
22 A. Yes.
23 Q. Did they do random testing?

Page 51

1 A. Yes.
2 Q. Were you randomly tested?
3 A. One or two times, yes.
4 Q. Did you pass those tests or fail?
5 A. I passed them.
6 Q. Were you using illegal drugs during that
7 time period?
8 A. No.
9 Q. How long did you work for Lester Mill?
10 A. Over a year and a half.
11 Q. And I'm not trying to trip you up. I'm
12 just trying to make sure that I get a full
13 history. I know in the discovery -- in the
14 responses to interrogatories it had that
15 you worked there for -- Let me see. In
16 your application with Waste Management, it
17 had you working there until December of
18 2000. And I'm not -- I'm just -- I can't
19 remember what I did four years ago. So I'm
20 just trying to figure out where all you
21 worked.
22 A. Uh-huh (positive response).
23 Q. Did you work anywhere between Lester Mill

Page 52

1 and when you went to Waste Management?
2 A. I can't recall.
3 Q. Well, we've talked about H & W Logging.
4 We've talked about Fleming Wood Products,
5 and we've talked about Lester Mill. And I
6 know you worked for Waste Management, which
7 we'll talk about in a minute. Can you
8 remember any other places that you worked
9 before you started at Advanced Disposal
10 Services?
11 A. You know, like I had temporary jobs, you
12 know, like temp agencies here and there. I
13 can't remember. I can't remember this.
14 Q. Did you work through a temp company?
15 A. When?
16 Q. Well, I guess -- You've -- There was an
17 Employment Resource. Is that a --
18 A. Oh, yes. That's a temp company.
19 Q. Did you work with any other temp companies?
20 A. Yes. I can't -- I can't remember the name
21 of them. Back years ago.
22 Q. When did you work for Employment Resource?
23 A. I can't recall the date on that.

Page 53

1 Q. Would January of 2004 to April 2005 sound
2 about right?
3 A. Yes, I would say. Yeah. Uh-huh (positive
4 response).
5 Q. And, you know, I understood -- I'm not
6 trying to tie you down to the dates. I
7 gave those because those are the dates that
8 I had. But, I mean, you're not going to be
9 held to those dates. I'm just trying to
10 get a general idea.
11 You got your CDL in 2000. Is that what
12 you had said?
13 A. Yes. Uh-huh (positive response).
14 Q. What made you decide to get a CDL?
15 A. I just decided to get them. Just -- I
16 mean, job -- to get a better job.
17 Q. Where did you -- Where did you go work when
18 you got your CDL?
19 A. I can't recall. I can't recall right now.
20 Q. Did you work for Waste Management?
21 A. Yes. I went to work for them. I went to
22 work for them at that time, yes.
23 Q. How many times did you work for Waste

Page 54

1 Management?
2 A. Twice. I worked for them two times.
3 Q. The first time that you worked for Waste
4 Management, when was that?
5 A. Might have been 2001.
6 Q. What did you do for them?
7 A. Drive.
8 Q. Were you subject to drug tests when you
9 worked for them that first time?
10 A. Yes.
11 Q. Did you have a preemployment drug test?
12 A. Yes.
13 Q. Did you have random drug tests?
14 A. Yes.
15 Q. Did you fail any of those drug tests?
16 A. No.
17 Q. Did you use illegal drugs while you were
18 working for them?
19 A. No.
20 Q. Did you ever feel like you were being
21 discriminated against by Waste Management
22 when you worked for them?
23 A. No.

Page 55

1 Q. Why did you stop working for them the first
2 time?
3 A. I went to jail.
4 Q. What did you go to jail for then?
5 A. I don't remember exactly what it was.
6 Q. How long were you in jail at that time?
7 A. I don't remember.
8 Q. Do you remember when it was?
9 A. It was two thousand -- 2002, I believe it
10 was. 2002.
11 Q. Was it for a violation of parole?
12 A. Yes.
13 Q. Do you know what the violation of parole
14 was?
15 A. No, I don't remember exactly.
16 Q. Anything that would help you remember what
17 it was?
18 A. I know I was into it with a spouse, a lady
19 friend. Yeah, I know that much.
20 Q. The lady friend, it wasn't Jennifer at that
21 time, though?
22 A. No.
23 Q. Who was it?

Page 56

1 A. Brenda Hughley.
2 Q. Who?
3 A. Brenda Hughley.
4 Q. Brenda Hughley.
5 You were never married to her, though?
6 A. No.
7 Q. When you got out of prison at that point,
8 where did you go work?
9 A. I don't remember.
10 Q. Do you remember working any place -- I know
11 you -- I know you got out of prison -- It
12 would have been sometime in 2002 or 2003.
13 You started working for Employment Resource
14 after that. Do you remember working any
15 place between getting out of prison and
16 going to Employment Resource?
17 A. I can't remember.
18 Q. With Employment Resource, what type of
19 trucks were you driving?
20 A. I worked in the plant.
21 Q. What did you do?
22 A. Spot weld machines.
23 Q. Were you subject to drug testing with them?

Page 57

1 A. Yes.
 2 Q. Was there random testing?
 3 A. Yes.
 4 Q. Were you given a preemployment test?
 5 A. Yes.
 6 Q. Did you fail any of those tests?
 7 A. No.
 8 Q. Did you use any illegal drugs while you
 9 worked for them?
 10 A. No.
 11 Q. I want to talk about the -- Why did you
 12 stop working for Employment Resource?
 13 A. I don't recall. I think I went back to
 14 Waste Management then.
 15 Q. When you went back to Waste Management, did
 16 you take any -- a preemployment drug test?
 17 A. Yes.
 18 Q. Did you pass that one?
 19 A. Yes.
 20 Q. Who was your supervisor at Waste
 21 Management?
 22 A. William Stabler.
 23 Q. Did you ever feel like you were

Page 58

1 discriminated against while you worked for
 2 Waste Management?
 3 A. No.
 4 Q. Were you subject to random drug tests while
 5 you worked there?
 6 A. Yes.
 7 (Defendant's Exhibit 5 was marked
 8 for identification.)
 9 Q. I'm going to mark as Defendant's Exhibit
 10 5 -- And I apologize. This is the only
 11 copy I've got.
 12 MR. DYKES: You can look at it,
 13 Jim.
 14 Q. -- a drug testing custody form.
 15 MR. DOUGLAS: Is there a question?
 16 MR. DYKES: I was just giving him
 17 a chance to look at it.
 18 MR. DOUGLAS: Okay.
 19 Q. Have you seen that before?
 20 A. Not this, no. Not this one.
 21 Q. Is that your name on it, Mr. Cannon?
 22 A. Yeah. Yeah, that's my name.
 23 Q. Is that your social security number on

Page 59

1 there, Mr. Cannon?
 2 A. Social security. Yeah, that it's.
 3 Q. And this is dated 12 -- Let's see. This is
 4 dated 12/4/01, so that looks like a pre --
 5 probably your preemployment test from the
 6 first time; is that right?
 7 A. Right. Uh-huh (positive response).
 8 Q. Can you think of any other place that you
 9 worked prior to coming to work for Advanced
 10 Disposal?
 11 A. I can't think of any.
 12 Q. Had you ever used illegal drugs before
 13 coming to work for Advanced Disposal?
 14 A. No.
 15 Q. Have you ever used illegal drugs?
 16 A. Yes.
 17 Q. When?
 18 A. Back in the past. Back years ago in the
 19 past.
 20 Q. Well, I mean, you've -- you were -- This
 21 lawsuit is over a failed drug test. So, I
 22 mean, when you say years ago in the past,
 23 are you talking a couple of years ago, are

Page 60

1 you talking ten years ago, 20 years ago?
 2 MR. DOUGLAS: I'm going to object
 3 to the form. He testified
 4 that he tested positive in two
 5 thousand and something or
 6 another already. Are you
 7 asking before that or since
 8 that or just -- are you asking
 9 every time he's ever used
 10 drugs?
 11 MR. DYKES: Well, I mean, I've
 12 asked with all of his
 13 employers up until he started
 14 with Advanced Disposal
 15 Services, and he said he
 16 didn't use any drugs while he
 17 worked for them. I know he
 18 said he failed a test in
 19 2002.
 20 Q. I'm just trying to figure is the
 21 testimony -- Is the only time you used
 22 illegal drugs in 2002, or are there other
 23 times that you've used other illegal drugs?

Page 61

1 A. Before 2002.
 2 Q. But no drug use since 2002?
 3 A. No.
 4 Q. Any idea how if you haven't used drugs
 5 since 2002 there's a drug test with Waste
 6 Management with your social security number
 7 on it that has a positive for cocaine and a
 8 drug test with Advanced Disposal with your
 9 social security number on it with a drug
 10 test that's positive for cocaine?
 11 A. What's the question?
 12 MR. DOUGLAS: He's asking you to
 13 explain the positive drug
 14 test; right?
 15 MR. DYKES: Yeah.
 16 Q. I just -- Your testimony is you haven't
 17 used drugs since 2002. I'm just trying to
 18 figure out why there's a drug test from
 19 Waste Management with your -- from December
 20 of 2006 with your social security number on
 21 it and a drug test from Advanced Disposal
 22 in January of 2007 with your social
 23 security number on it with both of them

Page 62

1 having a tested positive for cocaine. I'm
 2 just trying to understand that.
 3 A. So you --
 4 THE WITNESS: Explain it to him?
 5 Is that what you're saying?
 6 MR. DOUGLAS: Yeah. If you know
 7 why it is, you can tell him.
 8 THE WITNESS: Okay.
 9 MR. DOUGLAS: If you don't know
 10 why it is, then you don't
 11 know.
 12 A. Okay. Well, the one from Waste Management,
 13 like I said, this is the first I've seen of
 14 that.
 15 Q. Okay.
 16 A. And I didn't -- I didn't have no positive
 17 drug screen at Waste Management. No one
 18 told me nothing about I had a positive drug
 19 screen. Okay. And Advanced Disposal don't
 20 have no -- nothing with my name on it
 21 saying I had a positive drug screen. So
 22 that's the best I can explain that.
 23 Q. Okay. And I just -- I want to make sure

Page 63

1 that I'm right. Looking back at
 2 Defendant's Exhibit 1 -- This is your name
 3 on Defendant's Exhibit 1 as Robert Cannon?
 4 A. Uh-huh (positive response).
 5 Q. And this is your social security number on
 6 Defendant's Exhibit 1?
 7 A. Uh-huh (positive response).
 8 Q. And that's a positive drug test for
 9 cocaine; is that right?
 10 A. That's what I see. Uh-huh (positive
 11 response).
 12 Q. Okay.
 13 (Off-the-Record discussion.)
 14 MR. DYKES: If y'all want to take
 15 a quick break. I'm fixing to
 16 get into his Advanced Disposal
 17 employment.
 18 MR. DOUGLAS: No. Let's roll on.
 19 MR. DYKES: Okay.
 20 (Off-the-Record discussion.)
 21 Q. When did you start working for Advanced
 22 Disposal?
 23 A. January 23, '07.

Page 64

1 Q. Did you fill out an application with them
 2 before you started?
 3 A. Yes.
 4 (Defendant's Exhibit 6 was marked
 5 for identification.)
 6 Q. I'm going to mark as Defendant's Exhibit
 7 Number 6 a driver's application for
 8 employment. Is this your application with
 9 Advanced Disposal Services?
 10 A. Yes.
 11 Q. On page two, is that your signature?
 12 A. You.
 13 Q. On the application on page one, it asks
 14 have you ever been convicted of a felony.
 15 Did you complete that section?
 16 A. No.
 17 Q. Did you tell anybody at Advanced Disposal
 18 that you had been convicted of a felony?
 19 A. Yes.
 20 Q. Who did you tell?
 21 A. Russell Davis.
 22 Q. When did you tell him?
 23 A. The day he asked me why I didn't check that

Page 65

1 and I told him the reason I don't check it
2 is because I like to explain to people
3 about that when they ask me about it.
4 Because if you don't check it, they're
5 going to ask you about it. That's why -- I
6 like to explain it to them when I go to
7 them with it. That's why I didn't check
8 it.
9 Q. How long after you submitted the
10 application were you hired?
11 A. I think it was the next day.
12 Q. Who hired you?
13 A. Russell Davis.
14 Q. Did you go through any training after you
15 started with Advanced Disposal?
16 A. I don't recall going through any training.
17 I don't recall.
18 Q. Did you -- Once they hired you, did you
19 just -- did you start driving at that point
20 or was there a delay before you started to
21 drive?
22 A. I started driving.
23 Q. Did they give you an employee handbook when

Page 66

1 you got it -- when you got hired?
2 A. Yes.
3 (Defendant's Exhibit 7 was marked
4 for identification.)
5 Q. I'm going to mark as Defendant's Exhibit 7
6 an acknowledgment of receipt of employee
7 handbook. Have you seen this before,
8 Mr. Cannon?
9 A. Yes.
10 Q. Is that your signature on Defendant's
11 Exhibit 7?
12 A. Yes.
13 Q. Did you receive a copy of the employee
14 handbook?
15 A. Yes.
16 Q. Were you familiar with the company's drug
17 free workplace policy?
18 A. Yes.
19 (Defendant's Exhibit 8 was marked
20 for identification.)
21 Q. I'm just going to mark as Defendant's
22 Exhibit 8 the drug free workplace policy.
23 Is this the policy that you're familiar

Page 67

1 with?
2 A. What was the question?
3 Q. Was that the drug free workplace policy?
4 A. Was this the one they give me?
5 Q. Uh-huh (positive response).
6 A. I assume. I can't remember exactly what I
7 looked at that day. It's been a while.
8 Q. But you were familiar with the drug free
9 workplace policy when you worked there?
10 A. Right.
11 Q. And looking back at Defendant's Exhibit
12 Number 7, which is the acknowledgment of
13 the handbook, the last paragraph before
14 your name, does this indicate that you
15 would be subject to, among other things, a
16 urine analysis pursuant to the drug and
17 alcohol policy or the drug policy?
18 A. Now, what's the question?
19 Q. The last paragraph here indicates that you
20 would be subject to urine analysis subject
21 to that drug -- the drug policy; is that
22 right?
23 A. Yes.

Page 68

1 Q. Before you were hired, did you go through
2 any interviews or anything?
3 A. Yes.
4 Q. Who interviewed you?
5 A. Russell Davis and Danny -- I forget
6 Danny's last name.
7 Q. Futral? Does that sound familiar?
8 A. Yes. I think that's it.
9 Q. Do you remember anything about the
10 interview?
11 A. Nothing specific. Speaking of ...
12 Q. Any complaints about the interview?
13 A. No.
14 Q. And I'm going to talk to you about the drug
15 test and your discharge. Other than the
16 drug test and the discharge, do you -- are
17 you complaining about anything else that
18 happened during your employment with
19 Advanced Disposal?
20 A. Yes.
21 Q. Tell me about that.
22 A. Me and Danny didn't see eye to eye on a few
23 things.

Page 69

1 Q. How so?

2 A. Say what, now?

3 Q. How did y'all not see eye to eye?

4 A. Okay. When I went there in the job, the

5 drivers was supposed to, like -- We was on

6 day rate pay. Okay. If I finished my

7 route before you, I would come and help you

8 and we would help each other.

9 Q. Okay.

10 A. All right. I was the fastest man there. I

11 always beat everybody through, so I go help

12 out on everybody else route two or three

13 times a week, help out two or three hours.

14 They sat at the store drinking coffee and

15 smoking cigarettes and I'm out there

16 working. I finished my route and I'm doing

17 their job.

18 I complained to Danny about that. I'm

19 tired of doing others' job. Danny had a

20 habit of cussing, raising his voice, saying

21 he's the boss; we're going to do what he

22 say do. Okay. I go back and tell Danny

23 again, Danny, you know, my application did

Page 70

1 not say that I'll do my job and do somebody

2 else's. I said, now, we was doing this

3 here -- kind of hard. All the drivers help

4 each other. I told him I was tired of

5 doing they job.

6 I complained to Russell one time about

7 Danny -- the first time I complained to

8 him. Then he tells me -- Russell Davis

9 tell me, well, Danny is just military; you

10 know, he's an old military vet; y'all

11 just -- he don't mean no harm. I tell

12 Danny again, you know, Danny, don't keep

13 cussing at me; I'm grown just like you

14 are. And it goes on and on.

15 Q. Did he -- I'm sorry. Go ahead.

16 A. No. Go ahead.

17 Q. No. I didn't mean to interrupt. If you

18 were --

19 A. And then I go back to Russell again and

20 complain again to him. I'm tired of Danny

21 cussing at me. I'm tired of doing the

22 other guy's job. And so Russell said he

23 would spoke to Danny about the situation.

Page 71

1 If he did or not, I don't know, but he kept

2 going on and on.

3 Q. Did Danny say anything to you about your

4 race?

5 A. No.

6 Q. You say he was cussing at you. How -- What

7 was he saying?

8 A. What, the words he was saying?

9 Q. Yeah.

10 A. Well, I'm the God damn boss. Y'all are

11 going to do what I say do. If you don't,

12 find you another damn job. I run this. If

13 I want you to help out on somebody else's

14 route, you're going to do it. He got to

15 have -- Put his fingers just about up in

16 your. And I backed off one day and told

17 him don't do that.

18 Q. Okay. He -- I'm sorry.

19 A. And I complained to Russell Davis again.

20 And finally one morning it just got out of

21 hand in a little meeting. Me and Danny had

22 words back and forth. Two days later Danny

23 fired me. Said the drug screening I took

Page 72

1 two weeks ago was positive and said he had

2 to terminate me. That was his words.

3 Q. Did Danny just yell at -- curse at you or

4 did he curse at other folks out there too?

5 A. It was mainly me, because I was the only

6 one complaining about I'm tired of doing

7 other people job. I was the main one

8 helping out on everybody else's route. I

9 never got any help because I beat everybody

10 through.

11 Q. What was the racial makeup of the drivers

12 out there?

13 A. Explain to me what you're talking about.

14 Q. Well, how many drivers was it?

15 A. It was four of us.

16 Q. How many -- Of those four how many were

17 black?

18 A. Three.

19 Q. How many were white?

20 A. One.

21 Q. Was the white driver treated any

22 differently than the three black drivers?

23 A. He wasn't driving at the time when I was

Page 73

1 there. He was on the back of the truck.
 2 He took my spot after I left.
 3 Q. How do you know that?
 4 A. I see him in the truck.
 5 Q. What was his name?
 6 A. Coke Conway.
 7 Q. Ever heard of William Perry?
 8 A. Yes.
 9 Q. Who is William Perry?
 10 A. I just know him as William Perry.
 11 Q. Do you know if he works for -- or worked
 12 for Advanced Disposal Services?
 13 A. Yes, he went to work there.
 14 Q. Do you know when he went to work there?
 15 A. No.
 16 Q. Any other -- Any other complaints about
 17 while you were working at Advanced Disposal
 18 Services? And I know we're going to talk
 19 about the drug test and the discharge. But
 20 any other complaints?
 21 A. Yes. The complaint that -- The last time I
 22 complained to Russell Davis was that my
 23 truck was down one Friday morning, I think,

Page 74

1 about two hours. And I still get out there
 2 on my route and beat everybody through and
 3 then still got to go help out on the other
 4 guys' route. And I really got -- It really
 5 teed me off on that.
 6 And I said, well, Danny -- You know, I
 7 went back to Danny again. This just don't
 8 make sense. Somebody should have been
 9 helping me if my truck been down for two
 10 hours. This time he got -- shouted and
 11 raised his voice and, you know, telling me
 12 that I'll keep complaining to Russell and
 13 he complain to him and I won't have a job.
 14 Q. Did you -- When you complained to them, did
 15 you complain that you thought these things
 16 were going on because you were black?
 17 A. No, I didn't -- I didn't tell him that.
 18 Q. While you were working for Advanced
 19 Disposal, did anybody say anything to you
 20 about your race or color?
 21 A. No.
 22 Q. And I know I kind of jumped over this. You
 23 were hired as a driver?

Page 75

1 A. Yes.
 2 Q. What -- As a driver what did you do?
 3 A. You know, you drive through to stops and
 4 you'll get out on occasion and help the
 5 helper on occasion. You'll get out and
 6 help. Sometimes you couldn't get out and
 7 help him depending on the traffic.
 8 Q. How many trucks -- How many trucks were
 9 there with -- where you worked?
 10 A. They had three trucks and they had one
 11 spare, so there were four trucks.
 12 Q. So did each truck have a helper?
 13 A. Yes.
 14 Q. Was Coke Conway -- was that your helper?
 15 A. No.
 16 Q. Who was your helper?
 17 A. Willie Summers was my helper.
 18 Q. When the other drivers would get done, I
 19 realize it was after you got done, but
 20 would they help out with anybody else or
 21 did they just go home?
 22 A. No. They would help out. That's when they
 23 got through.

Page 76

1 Q. So the issue you had was you got done
 2 sooner which left you to help out more?
 3 A. Yes.
 4 Q. What were you wanting them to do to help
 5 you?
 6 A. I was wanting everybody to pull they load,
 7 everybody do they own route and then just
 8 be -- That's it. Because it wasn't fair to
 9 me to keep doing an hour and two hours
 10 every day on somebody else's route.
 11 (Defendant's Exhibit 9 was marked
 12 for identification.)
 13 Q. I'm going to mark as Defendant's Exhibit 9,
 14 a collection form for urinalysis test. Do
 15 you recognize this form that's been marked
 16 as Defendant's Exhibit 9?
 17 A. Yes.
 18 Q. Is that your signature on Defendant's
 19 Exhibit 9?
 20 A. Yes.
 21 Q. Is that your social security number at the
 22 top of Defendant's Exhibit 9, the 428 --
 23 420-88-2743?

Page 77

1 A. Yes, that's it.
 2 Q. Do you have any complaints about being
 3 required to complete this form to give a
 4 urinalysis test?
 5 A. Say again.
 6 Q. Do you have any complaints about Advanced
 7 Disposal requiring you to take a urinalysis
 8 test when you were hired?
 9 A. Did I have any complaints?
 10 Q. Yeah.
 11 A. No.
 12 Q. Did you give a urinal -- urine sample on
 13 January 22, 2007?
 14 A. Yes.
 15 Q. Did you ever see the results of -- or the
 16 test results from that urine sample?
 17 A. From this one?
 18 Q. Yes.
 19 A. No. Talking about did I see it after he
 20 gave me the test or did I ever see it?
 21 Q. Did you ever see it while you worked for
 22 Advanced Disposal --
 23 A. No.

Page 78

1 Q. -- Services?
 2 A. No, I didn't see it while I was working
 3 there.
 4 (Defendant's Exhibit 10 was marked
 5 for identification.)
 6 Q. What I'll mark as Defendant's Exhibit 10
 7 are the results of the January 22, 2007
 8 drug test.
 9 MR. DOUGLAS: I'm going to object
 10 to the form.
 11 Q. I'm going to mark as Defendant's Exhibit 10
 12 what is entitled results of DOT control
 13 substance test with a verification date
 14 of -- typed in of February 2, 2007,
 15 handwritten in February 12, 2007. Have you
 16 seen this form?
 17 A. Did I see it while I was working for them
 18 or have I seen it period?
 19 Q. I know you testified you haven't -- you did
 20 not see it while you were working for them.
 21 A. Right.
 22 Q. Had you seen it prior today?
 23 MR. DOUGLAS: I object. He said

Page 79

1 he didn't see the results of
 2 the blood test. And he can
 3 attest that these are those
 4 results. So that's why it was
 5 fair for him to ask you when.
 6 MR. DYKES: Okay.
 7 MR. DOUGLAS: I apologize.
 8 MR. DYKES: That's fine.
 9 Q. I'm going to just start my question over.
 10 Did you see Defendant's Exhibit 10 while
 11 you worked for Advanced Disposal?
 12 A. No.
 13 Q. When is the first time you saw Defendant's
 14 Exhibit 10?
 15 A. Well, after I was terminated.
 16 Q. Who gave it to you?
 17 A. I sent for it.
 18 Q. Who did you send for it to?
 19 A. To this -- To these company.
 20 Q. Okay. Is this -- Is Defendant's Exhibit 10
 21 the form you got back?
 22 A. Yes, this is one of them. Yeah.
 23 Q. And I understand there was a second drug

Page 80

1 test you took from St. Louis MRO or where
 2 they did the test. Did you receive any
 3 other drug test from them?
 4 A. No.
 5 Q. Looking at Defendant's Exhibit 10, does
 6 this -- is this your social security number
 7 on it?
 8 A. Yes, it is.
 9 Q. And the name is Robert and it looks like
 10 Rannon; is that right?
 11 A. I can't pronounce it.
 12 Q. Well, looking at the first name it looks
 13 like Robert, does it not?
 14 A. Right. Uh-huh (positive response).
 15 Q. And the second name looks like there's a
 16 capital R, A-N-N-O-N. Is that what it
 17 looks like to you?
 18 A. It looks like that's an H on one of them.
 19 Q. And Defendant's Exhibit 10 shows a positive
 20 test for cocaine; is that right?
 21 A. Yes, that's what it shows.
 22 Q. I know you asked St. Louis MRO to send you
 23 a copy of what's been marked as Defendant's

Page 81

1 Exhibit 10. Did you talk to anybody at
 2 St. Louis MRO about this test, about these
 3 results?
 4 A. No.
 5 Q. Other than your lawyer -- and I don't want
 6 to know what y'all talked about -- have you
 7 talked to anybody else about the results of
 8 Defendant's Exhibit 10?
 9 A. Yes.
 10 Q. Who's that?
 11 A. I can't recall. I mean, I don't remember
 12 the person name who I talked to at MRO.
 13 Q. Have you had discussions with anybody other
 14 than your attorney about the accuracy of
 15 the results from Defendant's Exhibit 10?
 16 A. Explain that a little bit better to me.
 17 Q. Well, have you talked to anybody other than
 18 your attorney -- and I don't want to know
 19 what y'all have talked about -- that has
 20 questioned the results of defendant's
 21 exhibit -- listed on Defendant's Exhibit
 22 10?
 23 A. No.

Page 82

1 Q. Why do you think the results on Defendant's
 2 Exhibit 10 are not your drug -- your drug
 3 test -- your urine test taken on January
 4 22, 2007?
 5 A. Well, it's not my name for one.
 6 Q. Okay.
 7 A. And it hasn't been signed by a medical
 8 review officer, or whatever. So I -- And
 9 so that's why I feel like it wasn't a fair
 10 test to me, because a drug test is supposed
 11 to be signed by someone. And this has
 12 never been signed and it's not my name.
 13 Q. Do you know anybody -- Are you aware of any
 14 other test results from St. Louis MRO that
 15 another employee of Advanced Disposal has
 16 claimed wasn't their test?
 17 A. Repeat that, sir.
 18 Q. Have you heard of anybody -- any other
 19 Advanced Disposal employees complaining
 20 about the results of a drug test from
 21 St. Louis MRO?
 22 A. No.
 23 Q. Do you know of anybody else who's worked

Page 83

1 for Advanced Disposal who has taken a drug
 2 test that had a positive result and
 3 continued to work there?
 4 A. No.
 5 Q. My understanding is that you took a second
 6 test from Advanced Disposal. When did you
 7 do that?
 8 A. February 12th.
 9 (Defendant's Exhibit 11 was marked
 10 for identification.)
 11 Q. I'm going to mark as Defendant's Exhibit 11
 12 the results of a DOT controlled substance
 13 test with a verification date of 2/14/07.
 14 Do you recognize these results or this
 15 test?
 16 A. Yes.
 17 Q. Is this the second test you took with
 18 St. Louis MRO?
 19 A. Yes.
 20 Q. This shows a positive -- I mean, a negative
 21 result; right?
 22 A. Yes.
 23 Q. Do you dispute the results on this test?

Page 84

1 A. No.
 2 Q. Is that your social security number on the
 3 test?
 4 A. Yes.
 5 Q. Did you take your own personal drug test
 6 through your own personal physician -- a
 7 drug test through him?
 8 A. Say again.
 9 Q. Did you have a -- your personal physician
 10 do a drug test on you?
 11 A. Yes. I did another drug screen.
 12 Q. Why did you do that?
 13 A. Because the day that I -- when Danny came
 14 and told me this first drug screen that I
 15 took -- he said that -- He come in a
 16 hostile way. You need to go back and take
 17 another drug screen. And so we had a few
 18 words on that. He going to tell me I know
 19 you dirty. I told him I wasn't. So he
 20 said, well, can you take another one. And
 21 he was just -- The reason -- what made me
 22 take the second drug screen is because when
 23 I left to take this one, his word was to me

Page 85

1 I'm going to get Coke off the back of that
 2 truck if it's the last thing I do. He was
 3 talking about Coke Conway, the white guy.
 4 Q. Okay.
 5 A. So when I went and took this drug screen --
 6 That's why I come back on my own and paid
 7 out of my pocket and took one.
 8 (Defendant's Exhibit 12 was marked
 9 for identification.)
 10 Q. I'm going to mark as Defendant's Exhibit 12
 11 a drug screen from Kent V. Klimmer (sic).
 12 Do you recognize this?
 13 A. From Dr. Klinner.
 14 Q. Do you recognize that, Mr. Cannon?
 15 A. Yes.
 16 Q. Is this the result -- Are these the results
 17 of the drug test you took from Dr. Klimmer?
 18 A. Yes.
 19 Q. Okay.
 20 MR. DOUGLAS: Just for the Record
 21 it's Klinner, K-L-I-N-N-E-R.
 22 MR. DYKES: Klinner.
 23 MR. DOUGLAS: It looks like an M

Page 86

1 but it's two Ns.
 2 MR. DYKES: Okay.
 3 (Off-the-Record discussion.)
 4 Q. How long did you work for Advanced Disposal
 5 after you gave him the results of this drug
 6 test?
 7 A. Up until -- until March 9th.
 8 Q. Tell me what happened on March 9th.
 9 A. March 9th -- On the 7th, which was the
 10 Wednesday before that Friday on the 9th --
 11 On March 7th, that Wednesday morning --
 12 Q. Yeah.
 13 A. -- me and Danny had a heated argument.
 14 This one almost got out of hand. Danny
 15 followed my truck all day that Wednesday.
 16 He followed my truck all day Thursday. He
 17 followed my truck all day Friday. Friday
 18 afternoon I come in the office, dumped the
 19 truck, did my paperwork as usual. He
 20 pulled me in the office and tells me that
 21 the drug screen you took two weeks ago come
 22 back positive; I'm going to have to let you
 23 go.

Page 87

1 I responded to him, I said, Danny, the
 2 same day I took that drug screen I gave you
 3 a copy where I went by a doctor. He said,
 4 we can't recognize your personal doctor. I
 5 said, well, he's not my personal doctor;
 6 it's just a doctor office I stopped by to
 7 take a drug screen. I said, and I gave it
 8 to you. He said, well, I gave it to
 9 Russell. I said, well, you still firing me
 10 saying that that drug screen was positive.
 11 He said, well, Russell told me to terminate
 12 you. I said, well, okay.
 13 Q. Anything said about your race when he was
 14 terminating you?
 15 A. No.
 16 Q. Do you know who made the decision to
 17 discharge you?
 18 A. No.
 19 Q. Did you ask Danny why he was following you?
 20 A. Yes, I did.
 21 Q. What did he tell you?
 22 A. I asked him that -- Well, that Wednesday I
 23 didn't say nothing to him. But that

Page 88

1 Thursday when I saw him and I stopped at
 2 the store, I went out back -- to the back
 3 of his truck and asked him why are you
 4 following me, Danny. I said, I saw you
 5 yesterday following me. He said, I'm going
 6 to make sure you don't do nothing out of
 7 the ordinary because I'm tired of your
 8 smart mouth. I went back and got in the
 9 truck.
 10 Q. Did you get any disciplines while you
 11 worked for Advanced Disposal?
 12 A. No.
 13 Q. Any performance evaluations?
 14 A. Any what, now?
 15 Q. Any performance evaluations.
 16 A. Performance -- I mean, as far as work
 17 performance?
 18 Q. Yeah.
 19 A. Yeah. The first couple of weeks -- first
 20 week or so he come and told all the
 21 drivers, you know, we're doing a good job;
 22 we're just now getting the contract and
 23 we're trying to get things situated. He

Page 89

1 said, y'all are doing a good job. And
 2 that's it.
 3 Q. Your pay ever get decreased while you
 4 worked there?
 5 A. No.
 6 Q. Who was your supervisor at Advanced
 7 Disposal?
 8 A. Danny.
 9 Q. What was your pay rate?
 10 A. 125 day rate.
 11 Q. How many hours did you typically work?
 12 A. It all depends. Anywhere from 30 to 42
 13 hours -- 32 to 42 hours. Whenever you got
 14 through with your route, you're finished.
 15 Q. Okay. When you went to take the test with
 16 Dr. Klinner, did you plan in advance to go
 17 get -- to go take a test with him or did
 18 you just show up one day?
 19 A. No. I just stopped by. Just showed up.
 20 Q. When you took your second test with
 21 St. Louis MRO, were you -- did you schedule
 22 it in advance, or how did that work?
 23 A. Danny told me to go down there that Monday

Page 90

1 morning.
 2 Q. Okay.
 3 A. Told me to go take it and then come to work
 4 after I took the test.
 5 Q. Did he tell you on Monday to go take it or
 6 did he tell you on Friday that you were
 7 going to take it on Monday?
 8 A. He told me on Friday.
 9 Q. Any idea how long cocaine stays in the
 10 system?
 11 A. I don't know.
 12 (Defendant's Exhibit 13 was marked
 13 for identification.)
 14 Q. I'm going to mark as Defendant's Exhibit 13
 15 a final clearance for terminating
 16 employee. Have you seen that before,
 17 Mr. Cannon?
 18 A. You're saying did I sign this?
 19 Q. Have you seen this before?
 20 A. No, I haven't seen this before.
 21 Q. Is that your signature on the bottom?
 22 A. Yeah, that's my name, but I didn't sign
 23 this paper here.

Page 91

1 Q. So you're saying that's not your
 2 signature?
 3 A. That's not -- I mean, that's not -- I did
 4 not sign this paper here. When they
 5 brought this paper to me to sign on
 6 termination that day, I told them I wasn't
 7 going to sign it because it's saying
 8 violating drug and alcohol policy. I
 9 didn't violate no policy. I did not sign
 10 this paper.
 11 (Defendant's Exhibit 14 was marked
 12 for identification.)
 13 Q. I'm going to mark as Defendant's Exhibit 14
 14 what has been marked as an employee
 15 disciplinary report. Have you seen that
 16 before, Mr. Cannon?
 17 A. No, I've never seen this before.
 18 Q. At the bottom of this, it's signed by what
 19 looks to be Trey Darby indicating employee
 20 refused to sign.
 21 A. Yeah, I see Darby. I see that. Uh-huh
 22 (positive response).
 23 Q. This report -- This document does not have

Page 92

1 your signature on it; is that right?
 2 A. No.
 3 MR. DOUGLAS: Object to the form.
 4 Q. Do you see your signature on Defendant's
 5 Exhibit 14?
 6 A. No.
 7 Q. Have we talked about the reasons you
 8 dispute the validity of the drug test from
 9 St. Louis MRO that showed a positive
 10 cocaine?
 11 A. Say what, now?
 12 Q. Have we talked about all the reasons that
 13 you dispute the validity of the drug test
 14 from St. Louis MRO showing the positive for
 15 cocaine results?
 16 A. Have we talked about --
 17 Q. Well, you told me that you didn't agree
 18 with it because it didn't have your name --
 19 A. Right.
 20 Q. -- and it didn't have a doctor's
 21 signature on -- or the signature on there.
 22 A. Right.
 23 Q. Any other reasons that you dispute those

Page 93

1 results?
2 A. Not at this time.
3 MR. DYKES: Can we take a break
4 for a second?
5 MR. DOUGLAS: Sure.
6 (Brief recess was taken.)
7 Q. Mr. Cannon, the time when you would help
8 the other folks out, I guess, when you got
9 done with your route, were you compensated
10 for the time that you were helping them?
11 A. No.
12 Q. How do you know you weren't compensated?
13 A. Because my check was the same.
14 Q. Did you have to clock in and clock out?
15 A. Yes.
16 Q. Did you clock -- Would you clock out and
17 then go back and do more work, or would you
18 clock out at the end when you got done
19 helping everybody else?
20 A. We'd just clock out at the end when we got
21 done helping everybody.
22 Q. Do you know how your pay rate -- how your
23 pay was calculated at the end of the week?

Page 94

1 A. All I know is it was \$125 a day rate paid.
2 And, I mean, if you -- You just -- I mean,
3 your check was calculated with a 125 day
4 rate and taxes come out of that, you know.
5 And that's the way it were.
6 Q. If you worked over 40 hours, did you get
7 overtime?
8 A. Yes. Uh-huh (positive response).
9 Q. Do you know what the rates -- day rates
10 were of the other folks who were working
11 there with you?
12 A. All drivers were the same day rate. I
13 don't know what the helper was.
14 Q. You had said -- I had asked you earlier
15 about the racial makeup of the drivers and
16 you had said three blacks and one white; is
17 that right?
18 A. Yes.
19 Q. Were there -- What was the makeup -- racial
20 makeup of the helpers?
21 A. All of them was black. I believe they was.
22 Q. Was Coke -- I'm trying to -- Was Coke
23 Conway a helper or was he a driver?

Page 95

1 A. Coke was a helper until I was terminated.
2 Q. How many helpers would there have been out
3 there?
4 A. Three, four.
5 Q. Four?
6 A. Four.
7 Q. Was that -- Was that three blacks and one
8 white as well then, I guess?
9 A. Yes. Uh-huh (positive response).
10 Q. Have you seen Coke Conway's personnel file?
11 A. Personnel file. What do you mean?
12 Q. Well, have you seen his employment records
13 with Advanced Disposal Services?
14 A. No.
15 Q. The only way that -- through your knowledge
16 that he moved into the truck was from what
17 you observed yourself seeing the truck go
18 by and, I guess, him driving?
19 A. Yes.
20 Q. And I'm going to mark -- And I realize this
21 is jumping back a little bit, but when you
22 were ...
23 MR. DYKES: Are we on 15?

Page 96

1 COURT REPORTER: We are.
2 (Defendant's Exhibit 15 was marked
3 for identification.)
4 Q. When you were hired, were you given an
5 alcohol and/or drug test notification?
6 A. Yes.
7 Q. Is that your signature on there?
8 A. Yes.
9 Q. And after you got this on January 22, 2007,
10 that's when you went down and took the drug
11 test; is that right?
12 A. I took it on the 22nd. I don't know if I
13 got this before or after.
14 Q. But this is telling -- Defendant's Exhibit
15 15 is telling you what time and what date
16 to go for the drug test?
17 A. Yes.
18 Q. I don't want to know what you talked about
19 with the lawyer, but when did you first go
20 see a lawyer about what was going on at
21 Advanced Disposal?
22 A. I don't know. Maybe a week or two weeks
23 later. I don't know. It might have been

Page 97

1 two. It might have been three. It might
2 have been less.
3 Q. But it was after the discharge?
4 A. Yes.
5 Q. Did you file a charge of discrimination
6 with the Equal Employment Opportunity
7 Commission?
8 A. What's that?
9 (Defendant's Exhibit 16 was marked
10 for identification.)
11 Q. What I'm going to mark as Defendant's
12 Exhibit 16, which is entitled, charge of
13 discrimination. Have you seen this -- the
14 charge of discrimination, Mr. Cannon?
15 A. Yes.
16 Q. Is that your signature at the bottom?
17 A. Yes.
18 Q. I want you to look through your allegations
19 in the charge. And is there anything --
20 any allegation you make in the charge we
21 have not talked about?
22 MR. DOUGLAS: The charge is that
23 part right there.

Page 98

1 Q. Yeah, there in the middle, the typed -- the
2 paragraph there.
3 A. Uh-huh (positive response).
4 Now, what was your question?
5 Q. I just want to make sure there are no
6 allegations that you're making in this
7 charge of discrimination that we have not
8 talked about.
9 A. And you're saying you want to make sure
10 that we've talked about all of this? Is
11 that what you're saying?
12 Q. Yeah. I just -- I want to make sure there
13 are not any claims that you're making from
14 this charge that we haven't talked about.
15 A. No.
16 Q. Now -- I didn't mean to cut you off, if I
17 did.
18 A. Oh, we talked about it.
19 Q. In here you say, I have documented proof my
20 drug screen, for which Sunflower Waste,
21 LLC, claims I was terminated, was, in fact,
22 negative. What is the documented proof?
23 A. The second drug screen I took February 12th

Page 99

1 and the one that I took from Dr. Klinner's
2 office.
3 (Defendant's Exhibit 17 was marked
4 for identification.)
5 Q. I'm going to mark as Defendant's Exhibit 17
6 what's entitled, dismissal and notice of
7 rights. Have you seen that, Mr. Cannon?
8 A. No, I haven't seen this.
9 Q. After getting -- Well ...
10 MR. DOUGLAS: Just so the Record
11 is clear, it indicates that it
12 was sent to me -- to my
13 office.
14 MR. DYKES: Yeah. That's fine. I
15 was just asking if he had seen
16 it. I don't ...
17 Q. And I know you're not a lawyer, but why did
18 you file this lawsuit against Advanced
19 Disposal Services?
20 A. Why did I file?
21 Q. Uh-huh (positive response).
22 A. Because I wasn't treated fairly, you know.
23 I mean -- And, I mean, I was lied on. You

Page 100

1 know, I've got a wife and three kids, and
2 it took food out of my family mouth. I've
3 got a family to provide for. If I was
4 wrong, I could see, but I wasn't wrong.
5 And I don't feel I was treated right.
6 Q. When you say you were lied on, is it the
7 results of the drug test you think you were
8 lied on?
9 A. Exactly.
10 (Defendant's Exhibit 18 was marked
11 for identification.)
12 Q. I'm going to mark as Defendant's Exhibit 18
13 a copy of the complaint. Mr. Cannon, have
14 you seen this before?
15 A. Yes.
16 Q. Now, one of the claims in here is that --
17 is race discrimination. Have we talked
18 about all the ways that you think you were
19 discriminated against because of your race?
20 A. No.
21 Q. Tell me how else you think you were
22 discriminated against because of your
23 race.

Page 101

1 A. Okay. Well, I feel like that Danny was
 2 trying to get Coke off the back of that
 3 truck because he made that comment to me
 4 that he's going to get Coke off the back of
 5 the truck if it's the last thing he do.
 6 And then, like I say, every time we
 7 would -- I would complain to him about me
 8 doing others' jobs, he always tell me that,
 9 well, you keep on and you won't have a job;
 10 better be glad you got one, because I've
 11 got a man on the back of the truck just
 12 waiting to start driving. And Coke was the
 13 only man -- the only guy on the back of the
 14 truck with CDLs that was ready to drive.
 15 And I felt like he was trying to get me
 16 out of the way to put Coke in the truck.
 17 That's just the way I feel. He
 18 discriminated against me with that. He
 19 always tell me I have a smart mouth because
 20 I kept going to Russell on him. And so I
 21 feel like he was trying to get him off the
 22 truck and just get me out of the way.
 23 Q. Were you working there when Coke was hired?

Page 102

1 A. Yes. I was hired -- I think it was two
 2 days before Coke.
 3 Q. Do you know if Coke is still there?
 4 A. No. He's -- Not to my knowledge. I
 5 haven't seen him in the truck lately.
 6 Q. Does -- The truck that Coke was driving
 7 after you were discharged, does it go by
 8 your house or does it go somewhere else?
 9 A. No. At that time my cousin works out there
 10 and I was still taking him to work in the
 11 morning time, and I was -- he was in the
 12 truck with Coke. He was Coke's helper
 13 after I left.
 14 Q. Any other ways -- Anything else race
 15 related that you're claiming was
 16 discrimination that we have not talked
 17 about?
 18 A. Not at this time.
 19 Q. Is there anything that would help you
 20 remember?
 21 A. I can't -- I don't know right now. I
 22 mean ...
 23 Q. Well, the reason I ask is because this is

Page 103

1 the only chance I get to ask you
 2 questions --
 3 A. Right.
 4 Q. -- about your allegations. So I just want
 5 to make sure that I know everything you're
 6 complaining about. So, you know, if
 7 there's anything that would help you
 8 remember something else, you know, please
 9 let me know.
 10 A. Nothing that I can think of right now, no.
 11 Q. In the complaint you make a claim that the
 12 terms and conditions of your employment
 13 were tainted with discrimination. Have we
 14 talked about how you think the terms -- how
 15 you think your employment -- the terms and
 16 conditions of your employment were tainted
 17 with discrimination?
 18 A. Tainted. Explain that word to me, tainted.
 19 Q. Well, just how you think just in your
 20 day-to-day work you were discriminated
 21 against because of your race. Have we
 22 talked about everything in that regard?
 23 A. Well, no. I feel that -- Can I go on?

Page 104

1 Q. Yeah.
 2 A. Okay. Well, I feel that one of the reasons
 3 he used the dirty urine thing was that
 4 because that's the way that he could get
 5 rid of me. Because, I mean, I did my job.
 6 I come to work. I did my job. I did other
 7 people job, so he couldn't put it on work
 8 performance, you know. Then, like I say, I
 9 do what I need to do when I get there.
 10 But it's just that I was tired of doing
 11 other people's job. And when I complained,
 12 I guess he just was tired of me complaining
 13 so he felt like that that's a way to get
 14 rid of me, just say dirty urine and go
 15 ahead like that. I feel like that that's
 16 the reason that he lied on me with the
 17 dirty urine, because my urine was not dirty
 18 and I know that from neither drug screen.
 19 Neither one of them. My urine wasn't dirty
 20 at all.
 21 Q. One of your allegations is that you were
 22 slandered. Do you know what slandered
 23 means?

Page 105

1 A. Lie.
 2 Q. How do you think you were slandered?
 3 A. Well, when he lied about that, I mean, that
 4 gave me a bad rep, a bad name. It will
 5 hurt me in the future as far as getting
 6 jobs or anything else.
 7 Q. Do you know if anything was written that
 8 you're complaining about?
 9 A. If anything was written?
 10 Q. Was written down that you're complaining
 11 about.
 12 A. You're saying did I write anything down?
 13 Q. That -- If Advanced Disposal did. In the
 14 documents you produced there was a thing to
 15 Ann Dora's. I'm going to mark it as
 16 Defendant's Exhibit 19.
 17 (Defendant's Exhibit 19 was marked
 18 for identification.)
 19 A. Ann Dora's.
 20 MR. DOUGLAS: What's your
 21 question? I'm sorry.
 22 Q. Are you complaining about what was
 23 submitted to Ann Dora's, which is indicated

Page 106

1 in Defendant's Exhibit --
 2 A. Oh, yes.
 3 Q. Okay. And this was in the documents that
 4 you've already given us today?
 5 A. Yes.
 6 Q. What are you complaining about from this
 7 document marked as Defendant's Exhibit 19?
 8 A. I'm complaining about where it's saying in
 9 here that I had positive drug urine and
 10 violated the drug and alcohol policy. And
 11 I'm also complaining about the date results
 12 on there. She said the date come back on
 13 3/9/07, but the date come back on 2nd 14,
 14 '07.
 15 Q. Your employment ended on 3/9/07; is that
 16 right?
 17 A. Yes, employment ended. But the way it --
 18 Okay. I'm just going by the way it reads
 19 to me.
 20 Q. Right. I understand. I understand.
 21 A. Uh-huh (positive response).
 22 Q. Any other ways? Any other ways that you're
 23 claiming that you were slandered?

Page 107

1 A. Yes. Because this was sent to another
 2 employer -- to another job employer.
 3 Right. Uh-huh (positive response).
 4 Q. Other than --
 5 A. So that's -- Uh-huh (positive response).
 6 Q. Other than this being sent to Ann Dora's,
 7 the employer -- potential employer, are you
 8 aware of anybody with Advanced Disposal
 9 Services telling somebody that you had
 10 had -- were discharged for failing a drug
 11 test?
 12 A. Not that I'm aware of. No, not that I can
 13 think of.
 14 Q. Nobody else -- Nobody has told you that
 15 they were told by -- from somebody by
 16 Advanced Disposal that you failed a drug --
 17 were discharged for failing a drug test?
 18 A. No.
 19 Q. One of your complaints is that you were --
 20 is that Advanced Disposal committed fraud
 21 with your testing. How did they -- What
 22 are you claiming there?
 23 MR. DOUGLAS: Object to the form

Page 108

1 to the extent it calls for a
 2 legal conclusion.
 3 THE WITNESS: So what --
 4 MR. DOUGLAS: Go ahead and answer.
 5 Q. Do you know what fraud is?
 6 A. Fraud?
 7 Q. Uh-huh (positive response).
 8 A. Yeah. When you falsify documents. I mean,
 9 not the truth, you know, not truthful about
 10 what you're saying or what you're doing.
 11 Q. What -- Is there anything that Advanced
 12 Disposal told you that you claim was not
 13 true?
 14 A. When they told me I had dirty urine.
 15 Q. All right. That's what you're complaining
 16 about with regards to fraud, is about the
 17 statements made about the urine test?
 18 A. Well, when they said I violated the drug
 19 and alcohol policy. Yes, I'm complaining
 20 about that.
 21 Q. Were all employees that -- Are you aware of
 22 any employees being hired who weren't given
 23 a preemployment drug test?

Page 109

1 A. No, I'm not aware.
 2 Q. What are you hoping to get out of this
 3 lawsuit?
 4 A. I can't answer at this time. Hoping to get
 5 fair treatment for one.
 6 Q. Anything else?
 7 A. I'm afraid I'll have to consult my attorney
 8 on that question. I don't ...
 9 Q. How have you been damaged by what you claim
 10 Advanced Disposal did?
 11 A. How have I been damaged?
 12 Q. Yeah.
 13 A. I've lost a CD in the bank for my kids that
 14 I was saving for their future. I received
 15 over four eviction notices from the Housing
 16 Authority threatening to put me and my
 17 family -- kids and wife outside. My wife
 18 had to go into her 401(k) twice to pay
 19 bills and make ends meet at the household.
 20 I lost a car in this deal, been kicked out
 21 of bankruptcy. My bankruptcy got
 22 dismissed.
 23 I went to jail by the repo man trying

Page 110

1 to repo my car. I went to the doctor for
 2 medication for -- just stressed out -- lot
 3 of stress and pressure. Hard for me to get
 4 another job making decent money, the kind
 5 of money I was making. I just been
 6 suffering ever since the time I lost this
 7 job by something that I did not do. I've
 8 been sued, got a judgment against me
 9 already. Got more threatening. A couple
 10 of them that you read off to me that I'm
 11 not aware of, so I know they're on the way.
 12 I know they're coming.
 13 Q. What's -- I missed that. I'm sorry.
 14 A. A couple of lawsuits that you read off to
 15 me, you said that -- asked me did I know
 16 about. I don't know about them yet, so I'm
 17 figuring that they're probably on the way
 18 if you got copies of them but I didn't. I
 19 haven't seen them yet. Big Al's is one --
 20 you named one of them.
 21 Q. Anything else?
 22 A. Yeah. I got an eviction notice now from
 23 the Housing Authority where I'm behind in

Page 111

1 March and still ain't paid for April yet.
 2 I've got to try to get that up sometime
 3 this month.
 4 Q. Are you working now?
 5 A. Yes. I started working about two weeks
 6 ago.
 7 Q. Where are you working?
 8 A. TruGreen Lawn Service -- Lawn Care.
 9 Q. What are you doing there?
 10 A. Spray -- Go out and spray lawns, spray the
 11 weeds out of lawns and stuff like that.
 12 Q. Did you have to take a preemployment drug
 13 test there?
 14 A. At True Lawn (sic)?
 15 Q. Yes.
 16 A. Yes.
 17 Q. Did you pass that one?
 18 A. Yes.
 19 Q. Had you worked anywhere else from the time
 20 you got discharged with Advanced Disposal
 21 until you were hired by TruGreen?
 22 A. Yes. I worked for Staffing Solutions.
 23 Q. How long did you work there?

Page 112

1 A. It's a temp agency. I worked there four
 2 months, I believe.
 3 Q. When was that?
 4 A. From October till February, I believe.
 5 Q. What were you -- Anything specific you were
 6 doing for them or through them?
 7 A. I was working out of Wal-Mart Distribution
 8 for them.
 9 Q. What were you doing at the Wal-Mart
 10 Distribution?
 11 A. Order filling.
 12 Q. What were you getting paid?
 13 A. \$12 an hour.
 14 Q. How many hours a week were you working?
 15 A. 24 sometimes. Might get 30. It was just a
 16 weekend shift.
 17 Q. Did you go from doing that to TruGreen?
 18 A. Yes.
 19 Q. How much are you making at TruGreen?
 20 A. \$9 an hour.
 21 Q. How many hours a week are you working?
 22 A. Probably -- Well, I haven't got 40 hours.
 23 I just been -- This is my second week. So

Page 113

1 I got 32 hours one week -- last week. This
 2 week I should have about 36 hours.
 3 Q. Prior to getting a job through Staffing
 4 Solutions at Wal-Mart, what have you done
 5 to try to get a job?
 6 A. Putting in applications everywhere,
 7 everywhere I can think to go.
 8 Q. Did you get any interviews?
 9 A. No.
 10 Q. Other than with Ann Dora's, are you
 11 complaining about anything Advanced
 12 Disposal did in regards to your getting
 13 interviews or jobs with other employers?
 14 A. Could I -- What are you saying, now?
 15 Q. Other than -- And we've talked about Ann
 16 Dora's --
 17 A. Right.
 18 Q. -- where -- and that document. Other than
 19 in regards to Ann Dora's, are you aware of
 20 any of those other potential employers or
 21 anything that you're -- Let me just start
 22 over.
 23 Over than with Ann Dora's, have you got

Page 114

1 any complaints that Advanced Disposal
 2 contacted any other potential employers?
 3 A. I don't know if they contacted them or
 4 not. Like I said, the jobs don't -- they
 5 don't tell you that. When you go for a
 6 job, they're not going to tell you -- say,
 7 well, Advanced Disposal contacted me and
 8 told me this. They just tell you we ain't
 9 hiring. They're not going to tell you
 10 that.
 11 Q. With your applications, have you got
 12 info -- are you putting information about
 13 your criminal convictions on there?
 14 A. Yes. I put it on some -- on some of them.
 15 Q. Do you think that has an influence on
 16 whether or not somebody will hire you?
 17 A. I don't know. It haven't. I mean, hasn't
 18 nobody told me in the past, so, I mean ...
 19 Q. Do you think if these potential employers
 20 were getting references or information from
 21 Waste Management and they found out about a
 22 drug test there that could influence their
 23 decision to hire you?

Page 115

1 MR. DOUGLAS: Object to the form.
 2 A. What do you mean? What are you saying?
 3 Q. Now, one of your complaints here is that,
 4 you know, this -- the drug test from
 5 Advanced Disposal and the discharge because
 6 of it has hurt you from getting other
 7 jobs.
 8 A. Uh-huh (positive response).
 9 Q. If an employer saw Defendant's Exhibit 1
 10 and Defendant's Exhibit 2, which are a
 11 failed drug test and a discharge for a
 12 failed drug test from Waste Management, do
 13 you think that would have an impact on
 14 their decision of whether or not to hire
 15 you?
 16 A. I couldn't say. I can't say what, you
 17 know -- what the job -- next job would
 18 think.
 19 Q. In your discovery responses, the places you
 20 listed -- you listed as applying at a
 21 Wallace Building, Laffiter (phonetic)
 22 Concrete Company, Twin City Wholesale,
 23 Sherman Concrete and Langley Trucking and

Page 116

1 that you were trying to get a job with
 2 Roto-Rooter through Staffing Solutions. Do
 3 you remember any place else you've applied?
 4 A. Not at this time.
 5 Q. How soon after you were discharged did you
 6 start applying for other jobs?
 7 A. I started the next week.
 8 (Defendant's Exhibit 20 was marked
 9 for identification.)
 10 Q. Okay. I'm going to mark as Defendant's
 11 Exhibit 20 the initial disclosures that I
 12 got from your lawyer in this case. Have
 13 you seen those, Mr. Cannon?
 14 MR. DOUGLAS: Are you asking him
 15 if he's seen this document or
 16 seen those names?
 17 MR. DYKES: Well, I was asking him
 18 here if he's seen this
 19 document.
 20 MR. DOUGLAS: Okay.
 21 A. No, I haven't seen this.
 22 Q. There are some names listed in A that are
 23 individuals likely to have discoverable

Page 117

1 information which may support plaintiff's
 2 claims and allegations. I want to ask you
 3 about these folks that are listed, that
 4 they might have information to support your
 5 claims. There's -- There's yourself. I
 6 assume -- And we've talked about everything
 7 you -- to your knowledge, that supports
 8 your claim; is that right?
 9 A. Right.
 10 Q. Danny White is listed as Mr. Cannon's
 11 supervisor. If I -- If I tell you that
 12 there was not a Danny White that worked for
 13 Advanced Disposal but there was a Danny
 14 Futral, do you dispute that it's Futral
 15 instead of White?
 16 A. I said Futral, yeah.
 17 Q. Okay. Have we talked about all your
 18 allegations regarding Danny Futral?
 19 A. Yes.
 20 Q. Next name listed is Coke Conway. Have we
 21 talked about, you know, everything you know
 22 in regards to Coke Conway that you believe
 23 supports your claims?

Page 118

1 A. Yes.
 2 Q. There's a corporate representative from
 3 St. Louis MRO. Have we talked about all
 4 your issues that you have with St. Louis
 5 MRO and the drug testing results?
 6 A. Yes, we talked about them.
 7 Q. Next is listed Tom Davis. Who is that?
 8 And if you don't know, that's fine.
 9 A. I don't know. I don't know. I know he's
 10 listed on this -- on the MRO paper.
 11 Q. Okay. Jo Ann Holder, who is that?
 12 A. Again, I don't know. I believe she's
 13 listed on some of the MRO papers.
 14 Q. If -- On six where she's listed, it says
 15 that she's part of the Department of
 16 Industrial Relations. Would that -- Would
 17 that ring a bell?
 18 A. Industrial Relations. What's that?
 19 Q. Well, did you apply for unemployment
 20 after --
 21 A. Oh, yes. Okay. yes. That's the hearing
 22 officer.
 23 Q. Yeah.

Page 119

1 A. Okay. Right.
 2 Q. Tell me what happened with -- Did you get
 3 unemployment benefits?
 4 A. Yes, I did.
 5 Q. Was there a hearing in regards to those?
 6 A. Yes.
 7 Q. Who all -- Who all testified or was
 8 involved in that? Do you know?
 9 A. Just me, Russell Davis and -- He testified
 10 and I testified. That was all.
 11 Q. Okay. I don't want to know anything you
 12 talked about with your lawyer. Was your
 13 lawyer there? Did you have a lawyer with
 14 you at the time?
 15 A. No.
 16 Q. Do you know if there was a lawyer there for
 17 Advanced Disposal?
 18 A. I don't know.
 19 Q. But there wasn't -- Was there a lawyer from
 20 Advanced Disposal that asked you questions?
 21 A. No. There was Ms. Holder. She was the
 22 hearing officer.
 23 Q. Next -- Number seven is Dr. Kent Klinner.

Page 120

1 Have we talked about everything you know in
 2 regards to Dr. Klinner?
 3 A. Yes.
 4 Q. Number eight is Reuben Lowder. I think we
 5 talked earlier that everything he knows
 6 about the lawsuit is from what you told
 7 him; is that right?
 8 A. Yes.
 9 Q. Number nine is a representative from
 10 Opelika Housing Authority. What -- How do
 11 you think a representative from Opelika
 12 Housing Authority would support your
 13 claims?
 14 A. Well, she is -- The manager there, she can
 15 verify that I was issued eviction notice
 16 and on the verge of getting kicked out --
 17 out in the streets and stuff and I had to
 18 come up with the money to stay in the
 19 Housing Authority.
 20 Q. Who is Harvey Stanford -- Standard?
 21 A. Stanford.
 22 Q. Stanford. Who is that?
 23 A. He was one of the drivers out there at the

Page 121

1 time when all of this was going on.
 2 Q. Is he black or white?
 3 A. He's black.
 4 Q. Does he have anything you believe
 5 supports -- any knowledge you believe
 6 supports your claims?
 7 A. Yes. He can -- He can -- He know about all
 8 this, what was going on between me and
 9 Danny.
 10 Q. And we've talked about what was going on
 11 between you and Danny?
 12 A. Yes. Uh-huh (positive response).
 13 Q. Anything else that you think Mr. Stanford
 14 would have knowledge about?
 15 A. No.
 16 Q. Have you -- Other than the folks we talked
 17 about earlier -- who was Reuben, David
 18 Cannon and Elaine Frazier -- have you
 19 talked to anybody else about -- other than
 20 your lawyer, and I don't want to know what
 21 you talked to your lawyer about -- talked
 22 to anybody else about your lawsuit?
 23 A. Not at this time. I can't think of anyone

Page 122

1 at this time.
 2 Q. Anybody else that you believe can help you
 3 or would have knowledge supporting your
 4 claims against Advanced Disposal that we
 5 have not talked about?
 6 A. No.
 7 Q. Other than the folks we've already talked
 8 about today, any former or current
 9 employees of Advanced Disposal Services
 10 that you've talked to about your case?
 11 A. No.
 12 Q. We talked about all the folks that if you
 13 could call who you wanted to the trial of
 14 this case that you would want to call. And
 15 I recognize your lawyer might -- I mean,
 16 I'm not holding you to this. But anybody
 17 else that you would want to testify on your
 18 behalf?
 19 A. That would know something about the case
 20 you're saying?
 21 Q. Uh-huh (positive response).
 22 A. No, not that I ...
 23 Q. Any -- I'm sorry.

Page 123

1 A. I'm trying to think of somebody. No, not
 2 that I know of.
 3 Q. Is there anything else about your claims
 4 against Advanced Disposal Services that
 5 you -- that we have not talked about today?
 6 A. No, not that I can recall at this time.
 7 Q. If you'll give me just a second, I think
 8 I'm about done.
 9 (Off-the-Record discussion.)
 10 MR. DYKES: I don't have anything
 11 else.

FURTHER DEPONENT SAITH NOT

Page 124

1 REPORTER'S CERTIFICATE
 2 STATE OF ALABAMA:
 3 ELMORE COUNTY:
 4 I, Haley A. Phillips, Certified Court
 5 Reporter, ACCR # 151, and Commissioner for the
 6 State of Alabama at Large, do hereby certify that I
 7 reported the deposition of:
 8 ROBERT CANNON
 9 who was first duly sworn by me to speak the truth,
 10 the whole truth and nothing but the truth, in the
 11 matter of:
 12 ROBERT CANNON,
 13 Plaintiff,
 14 vs.
 15 ADVANCED DISPOSAL SERVICES
 16 ALABAMA, LLC, d/b/a SUNFLOWER
 17 WASTE, LLC,,
 18 Defendants.
 19 In The U.S. District Court
 20 For the Middle District of Alabama
 21 Eastern Division
 22 Case Number 3:07-CV-846-WKW
 23 on Thursday, April 10, 2008.

Page 125

1 The foregoing 124 computer-printed pages
2 contain a true and correct transcript of the
3 examination of said witness by counsel for the
4 parties set out herein. The reading and signing of
5 same is hereby waived.

6 I further certify that I am neither of kin
7 nor of counsel to the parties to said cause nor in
8 any manner interested in the results thereof.

9 This 2nd day of May 2008.
10
11
12

13 _____
Haley A. Phillips, ACCR #151
14 Expiration Date: 9/30/08
Certified Court Reporter and
15 Commissioner for the State
16 of Alabama at Large
17
18
19
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21
22
23

<p>A</p> <p>about 5:17 12:9,18 15:6,18 16:6,16,19 16:19 17:23 18:6,19 19:5,21,23 20:21 21:2,20 22:3,11 23:22 27:13 30:5 34:6 37:15,19 38:2 39:19 41:15 42:11 44:3,15,23 45:18,22 47:12 49:11 52:3,4,5 52:7 53:2 57:11 62:18 65:3,3,5 68:9 68:12,14,17,21 69:18 70:6,23 71:3,15 72:6 72:13 73:16,19 74:1 74:20 77:2,6,19 81:2 81:2,6,7,14,19 82:20 85:3 87:13 92:7,12 92:16 94:15 96:18,20 97:21 98:8,10,14,18 100:18 101:7 102:17 103:4,6,14,22 105:3 105:8,11,22 106:6,8 106:11 108:9,16,16 108:17,20 110:16,16 111:5 113:2,11,15 114:12,21 117:3,6,17 117:21 118:3,6 119:12 120:1,6 121:7 121:10,14,17,19,21 121:22 122:5,8,10,12 122:19 123:3,5,8 ACCR 1:16 4:7 124:5 125:13 accuracy 81:14 Acknowledgement 3:4 acknowledgment 66:6 67:12 action 1:7 37:20 43:22 44:5 actions 43:20 address 27:6 adult 33:6,8 advance 89:16,22 Advanced 1:8 5:13 7:6 10:17,20 12:18 13:1 14:18 15:2,6,11,19 15:23 16:10,17,19,23 17:7,8,21 18:9 20:9 20:18,22 21:6,11 22:18 29:23 30:3 36:10 37:13 42:5 45:4 46:2 47:14 52:9 59:9,13 60:14 61:8 61:21 62:19 63:16,21 64:9,17 65:15 68:19 73:12,17 74:18 77:6</p>	<p>77:22 79:11 82:15,19 83:1,6 86:4 88:11 89:6 95:13 96:21 99:18 105:13 107:8 107:16,20 108:11 109:10 111:20 113:11 114:1,7 115:5 117:13 119:17,20 122:4,9 123:4 124:15 afraid 109:7 after 5:6 33:21 35:3 49:22 50:5 56:14 65:9,14 73:2 75:19 77:19 79:15 86:5 90:4 96:9,13 97:3 99:9 102:7,13 116:5 118:20 afternoon 86:18 again 12:16 19:16 33:21 34:2,3 35:3 69:23 70:12,19,20 71:19 74:7 77:5 84:8 118:12 against 5:15 14:18 15:2 17:7 21:6,11 22:18 30:3 37:21 42:4,8,12 42:20 43:20,23 44:5 45:4 49:6,13 54:21 58:1 99:18 100:19,22 101:18 103:21 110:8 122:4 123:4 agencies 52:12 agency 112:1 ago 5:12 31:15,16 51:19 52:21 59:18,22 59:23 60:1,1 72:1 86:21 111:6 agree 92:17 agreed 4:2,16,23 agreement 1:15 ahead 37:7 70:15,16 104:15 108:4 ain't 111:1 114:8 Alabama 1:2,8,17,19 2:6,10 4:8 30:13 44:15 124:2,6,16,20 125:15 alcohol 3:13 6:21 7:15 67:17 91:8 96:5 106:10 108:19 aliases 13:16 allegation 97:20 allegations 16:19 97:18 98:6 103:4 104:21 117:2,18 alleged 17:18 alleging 17:19 almost 86:14 already 60:6 106:4</p>	<p>110:9 122:7 always 69:11 101:8,19 Al's 44:11 110:19 among 67:15 amount 42:21 43:3 analysis 3:7 67:16,20 and/or 3:13 96:5 Ann 3:17 17:12,16 105:15,19,23 107:6 113:10,15,19,23 118:11 another 7:8 18:7 36:5 48:16 60:6 71:12 82:15 84:11,17,20 107:1,2 110:4 answer 6:18 19:2 43:10 108:4 109:4 anybody 9:1 15:22 16:10 18:21 19:9,22 20:16 27:20 64:17 74:19 75:20 81:1,7 81:13,17 82:13,18,23 107:8 121:19,22 122:2,16 anyone 121:23 anything 6:22 14:22 15:17 17:6 18:18 19:4,20 21:5,18 22:2 22:5 25:15 27:1 31:18 34:4 36:22 55:16 68:2,9,17 71:3 74:19 87:13 97:19 102:14,19 103:7 105:6,7,9,12 108:11 109:6 110:21 112:5 113:11,21 119:11 121:4,13 123:3,10 anywhere 27:14 29:4 51:23 89:12 111:19 apologize 33:12 58:10 79:7 appealed 40:7,16 APPEARANCES 2:1 appears 25:2 application 3:3 12:17 12:18 51:16 64:1,7,8 64:13 65:10 69:23 applications 12:13,20 113:6 114:11 applied 13:2 116:3 apply 118:19 applying 115:20 116:6 approximately 1:20 April 1:19 53:1 111:1 124:23 area 27:18 29:14 30:9 argument 86:13 around 13:9 48:5,6 arrested 31:20 32:3,5</p>	<p>32:11 33:21 34:1,3 35:3 39:15 41:4,8,10 arrests 41:1,14 42:1 44:21 asked 16:16 60:12 64:23 80:22 87:22 88:3 94:14 110:15 119:20 asking 5:16 6:8 10:8,13 38:11 60:7,8 61:12 99:15 116:14,17 asks 64:13 assault 32:7,12 assume 6:18 67:6 117:6 attempted 32:16 33:22 34:1 attest 79:3 attorney 5:13,20 13:22 14:7,17 15:1 18:19 18:20 24:8 31:6 81:14,18 109:7 Attorneys 2:9 Auburn 1:19 2:6 27:16 27:17 29:14 30:8 34:9 audio 16:12 August 40:2 aunts 30:22 31:5 Authority 2:22 44:1 109:16 110:23 120:10,12,19 Avenue 2:9 aware 11:18 17:5 44:13 44:14,17 82:13 107:8 107:12 108:21 109:1 110:11 113:19 A-N-N-O-N 80:16 a.m 1:20</p> <p>B</p> <p>B 2:4,5 back 7:12 9:7 11:10 26:13 29:22 36:8,14 36:23 38:7,21 39:8 43:17 47:16 48:11 52:21 57:13,15 59:18 59:18 63:1 67:11 69:22 70:19 71:22 73:1 74:7 79:21 84:16 85:1,6 86:22 88:2,2,8 93:17 95:21 101:2,4,11,13 106:12 106:13 backed 71:16 bad 105:4,4 bank 109:13 bankruptcies 45:17 bankruptcy 45:10,14 109:21,21</p>	<p>Beasley 17:17 24:22 beat 69:11 72:9 74:2 before 1:15 4:6 5:23 8:10,22 13:22 14:1,2 28:17 48:16 52:9 58:19 59:12 60:7 61:1 64:2 65:20 66:7 67:13 68:1 69:7 86:10 90:16,19,20 91:16,17 96:13 100:14 102:2 behalf 122:18 behind 44:4 110:23 being 27:2 43:22 49:5 49:13 54:20 77:2 107:6 108:22 believe 14:17 17:15,20 21:10,20 22:16 34:21 55:9 94:21 112:2,4 117:22 118:12 121:4 121:5 122:2 bell 118:17 benefits 46:1,3 119:3 beside 18:2 Besides 18:3 best 6:11 62:22 better 53:16 81:16 101:10 between 4:3,17 5:1 51:23 56:15 121:8,11 Big 44:11 110:19 bills 109:19 Birmingham 2:10 birth 26:1 bit 13:9 45:22 81:16 95:21 black 72:17,22 74:16 94:21 121:2,3 blacks 94:16 95:7 blood 79:2 boss 69:21 71:10 both 61:23 bottom 90:21 91:18 97:16 break 63:15 93:3 Brenda 56:1,3,4 Brief 24:1 93:6 Briggs 29:7 bring 14:4 broad 5:19 Brooks 2:8 brother 29:15 brought 40:3 43:20,23 44:11 91:5 Building 115:21 bunch 6:8 business 48:1,3,17,18</p> <p>C</p>
--	---	--	---	---

<p>calculated 93:23 94:3 calendar 15:9,14,17 call 122:13,14 called 16:15 30:17 50:2 calls 108:1 came 39:20 84:13 cannon 1:5,14 4:4 5:5 5:11 8:9,22 9:22 13:11 25:14,21 28:7 29:17 31:20 58:21 59:1 63:3 66:8 85:14 90:17 91:16 93:7 97:14 99:7 100:13 116:13 121:18 124:8 124:12 Cannon's 24:7 117:10 capital 80:16 car 39:21 109:20 110:1 Care 111:8 Carlos 28:5,8 case 4:18,20 30:15 40:21 116:12 122:10 122:14,19 124:22 Cashing 44:12 catch 44:6 Catherine 1:18 2:5 caught 44:8 cause 125:7 CD 109:13 CDL 47:3 53:11,14,18 CDLs 101:14 Center 33:1 40:8 44:16 CERTIFICATE 124:1 Certified 1:16 4:7 124:4 125:14 certify 124:6 125:6 challenge 36:21 37:10 37:11 chance 58:17 103:1 charge 3:14 45:3 97:5 97:12,14,19,20,22 98:7,14 charges 40:3,6 45:5 check 44:11 64:23 65:1 65:4,7 93:13 94:3 children 28:14,15,21 children's 28:4 church 31:9,11 cigarettes 69:15 Circuit 40:17,18 City 115:22 Civil 1:7 4:5 claim 21:18 24:18 25:12 30:4 45:7,23 46:10 103:11 108:12 109:9 117:8 claimed 82:16 claiming 17:21 102:15 106:23 107:22</p>	<p>claims 14:15,18 15:2 17:7 21:6,11,16 22:18 30:2 46:3 98:13,21 100:16 117:2,5,23 120:13 121:6 122:4 123:3 classes 47:1 clear 23:21 33:10 99:11 clearance 3:11 90:15 clock 93:14,14,16,16 93:18,20 clubs 31:17,18 cocaine 7:2,15 10:6 11:12 13:6 61:7,10 62:1 63:9 80:20 90:9 92:10,15 coffee 69:14 Coke 73:6 75:14 85:1,3 94:22,22 95:1,10 101:2,4,12,16,23 102:2,3,6,12 117:20 117:22 Coke's 102:12 collected 9:10,12 collection 3:7 76:14 college 46:20 color 74:20 come 48:10 69:7 84:15 85:6 86:18,21 88:20 90:3 94:4 104:6 106:12,13 120:18 coming 19:23 20:4 21:3 47:13 59:9,13 110:12 commencing 1:20 comment 101:3 commission 4:9 97:7 Commissioner 1:17 4:8 124:5 125:14 commit 36:5 committed 107:20 companies 52:19 company 42:12 46:7 52:14,18 79:19 115:22 company's 66:16 compensated 93:9,12 compensation 24:17 46:9 complain 70:20 74:13 74:15 101:7 complained 69:18 70:6 70:7 71:19 73:22 74:14 104:11 complaining 17:23 68:17 72:6 74:12 82:19 103:6 104:12 105:8,10,22 106:6,8 106:11 108:15,19 113:11</p>	<p>complaint 3:16 16:20 17:18,23 73:21 100:13 103:11 complaints 68:12 73:16 73:20 77:2,6,9 107:19 114:1 115:3 complete 64:15 77:3 completed 24:21 computer-printed 125:1 conclusion 108:2 Concrete 115:22,23 conditions 103:12,16 consolidated 42:14 Constangy 2:8 consult 109:7 contacted 12:9 114:2,3 114:7 contain 125:2 continued 83:3 contract 88:22 control 3:2 24:15 25:1 78:12 controlled 3:8,9 25:9 83:12 cont'd 3:1 conversation 16:18 conversations 15:22 16:9,13,18 convicted 31:21 32:12 34:12 35:9 64:14,18 conviction 32:15 33:5,5 39:16 convictions 41:14 44:22 114:13 Conway 73:6 75:14 85:3 94:23 117:20,22 Conway's 95:10 copies 110:18 copy 23:17 58:11 66:13 80:23 87:3 100:13 corporate 118:2 correct 9:17 125:2 counsel 4:3,17 125:3,7 count 39:1 COUNTY 124:3 couple 20:5 59:23 88:19 110:9,14 court 1:1,16,19 2:5 4:7 6:3,6 27:7,21 40:13 40:15,17,18 44:21 45:1 96:1 124:4,19 125:14 cousin 20:5,7,15,23 30:21 102:9 cousins 30:10,20 31:4 Cox 28:5 29:1 crime 31:21 criminal 114:13</p>	<p>current 122:8 curse 72:3,4 cussing 69:20 70:13,21 71:6 custody 3:2 24:14 25:1 58:14 cut 98:16</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>Dadeville 31:12 damaged 109:9,11 damn 71:10,12 Danny 68:5,22 69:18 69:19,22,23 70:7,9 70:12,12,20,23 71:3 71:21,22 72:3 74:6,7 84:13 86:13,14 87:1 87:19 88:4 89:8,23 101:1 117:10,12,13 117:18 121:9,11 Danny's 68:6 Darby 91:19,21 date 24:15,19 25:3,10 26:1 45:13 52:23 78:13 83:13 96:15 106:11,12,13 125:13 dated 24:22 59:3,4 dates 53:6,7,9 David 29:17 121:17 Davis 64:21 65:13 68:5 70:8 71:19 73:22 118:7 119:9 day 15:10 21:23 64:23 65:11 67:7 69:6 71:16 76:10 84:13 86:15,16,17 87:2 89:10,18 91:6 94:1,3 94:9,12 125:9 days 71:22 102:2 day-to-day 103:20 deal 109:20 December 9:5,12 11:12 38:3,8 51:17 61:19 decent 110:4 decide 53:14 decided 53:15 decision 14:9,10 24:16 87:16 114:23 115:14 decreased 89:3 Defendant 1:10 2:7 Defendants 124:18 defendant's 2:17 3:1 8:4,7,17,19 9:7,19,23 10:5 11:10,20 12:2 13:18,20 14:1 24:3,6 58:7,9 63:2,3,6 64:4 64:6 66:3,5,10,19,21 67:11 76:11,13,16,18 76:22 78:4,6,11</p>	<p>79:10,13,20 80:5,19 80:23 81:8,15,20,21 82:1 83:9,11 85:8,10 90:12,14 91:11,13 92:4 96:2,14 97:9,11 99:3,5 100:10,12 105:16,17 106:1,7 115:9,10 116:8,10 degree 34:7 35:8 39:17 delay 65:20 deny 9:10 Department 118:15 depending 75:7 depends 89:12 DEPONENT 123:14 deposition 1:14 2:21 4:4,6,13,18 5:2,21,23 13:21 14:5 18:14,22 19:11,19 20:1,5 21:2 22:22 23:2 24:11 25:16 124:7 detainer 25:12 differently 72:22 dirty 37:21 84:19 104:3 104:14,17,17,19 108:14 Disability 45:8 discharge 68:15,16 73:19 87:17 97:3 115:5,11 discharged 8:12 12:1 36:9 102:7 107:10,17 111:20 116:5 disciplinary 2:19 3:12 91:15 discipline 8:20 disciplines 88:10 disclosures 3:18 116:11 discoverable 116:23 discovery 51:13 115:19 discriminated 49:6,13 54:21 58:1 100:19,22 101:18 103:20 discrimination 3:14 21:19 97:5,13,14 98:7 100:17 102:16 103:13,17 discussion 63:13,20 86:3 123:9 discussions 81:13 dismissal 3:15 99:6 dismissed 45:16 109:22 Disposal 1:8 5:13 7:6 10:17,21 12:19 13:1 14:19 15:3,6,11,19 15:23 16:23 17:7,8 17:21 18:9 20:9,19 20:22 21:7,11 22:19 29:23 30:3 36:10</p>
--	--	--	--	---

37:13 42:5 45:4 46:2 47:14 52:9 59:10,13 60:14 61:8,21 62:19 63:16,22 64:9,17 65:15 68:19 73:12,17 74:19 77:7,22 79:11 82:15,19 83:1,6 86:4 88:11 89:7 95:13 96:21 99:19 105:13 107:8,16,20 108:12 109:10 111:20 113:12 114:1,7 115:5 117:13 119:17,20 122:4,9 123:4 124:15 dispute 83:23 92:8,13 92:23 117:14 disputing 7:7 distant 30:10,20,20 31:4 Distribution 112:7,10 District 1:1,2 124:19 124:20 Division 1:3 124:21 doctor 87:3,4,5,6 110:1 doctor's 92:20 document 10:9,12,15 18:2,6,8,11 91:23 106:7 113:18 116:15 116:19 documented 98:19,22 documents 14:4,14,16 17:11,20 18:2 22:21 23:21 24:7,9 25:14 25:18 105:14 106:3 108:8 doing 15:16 69:16,19 70:2,5,21 72:6 76:9 88:21 89:1 101:8 104:10 108:10 111:9 112:6,9,17 done 11:2 17:22 75:18 75:19 76:1 93:9,18 93:21 113:4 123:8 Dora's 3:17 17:12,16 105:15,19,23 107:6 113:10,16,19,23 DOT 3:8,9 25:8 78:12 83:12 Douglas 1:18 2:4,4 10:8 14:12 17:14 18:16 19:2,8,15 23:15,19,23 25:6,17 33:4,9 37:3 38:11,17 40:12,16 43:2,6 58:15,18 60:2 61:12 62:6,9 63:18 78:9,23 79:7 85:20,23 92:3 93:5 97:22 99:10 105:20 107:23 108:4	115:1 116:14,20 down 15:10,15,21 40:9 53:6 73:23 74:9 89:23 96:10 105:10 105:12 Dr 85:13,17 89:16 99:1 119:23 120:2 drinking 69:14 drive 29:20 54:7 65:21 75:3 101:14 driver 72:21 74:23 75:2 94:23 drivers 69:5 70:3 72:11 72:14,22 75:18 88:21 94:12,15 120:23 driver's 3:3 26:3,5,7,19 27:1 64:7 drives 29:19 driving 47:10 50:13 56:19 65:19,22 72:23 95:18 101:12 102:6 dropped 44:9 drops 44:6 drug 2:18 3:2,6,10,13 7:5,8,9,16,18,22 8:8 9:4,8,9,14,19 10:16 10:20,23 11:7,11,14 11:19 12:1 14:9 22:3 24:14,18,23,23 25:3 36:6,7,10,17,21 37:10,11 38:2,8,20 38:22,23 39:2,7,11 49:3,16 50:15,21 54:8,11,13,15 56:23 57:16 58:4,14 59:21 61:2,5,8,9,13,18,21 62:17,18,21 63:8 66:16,22 67:3,8,16 67:17,21,21 68:14,16 71:23 73:19 78:8 79:23 80:3 82:2,2,10 82:20 83:1 84:5,7,10 84:11,14,17,22 85:5 85:11,17 86:5,21 87:2,7,10 91:8 92:8 92:13 96:5,10,16 98:20,23 100:7 104:18 106:9,10 107:10,16,17 108:18 108:23 111:12 114:22 115:4,11,12 118:5 drugs 6:22 7:2 9:2 49:8 49:19 51:6 54:17 57:8 59:12,15 60:10 60:16,22,23 61:4,17 DUI 26:15 27:2 41:4,8 41:10 duly 5:6 124:9	dumped 86:18 during 15:10 48:9 49:19 51:6 68:18 Dykes 2:8,16 5:10,11 10:11 19:7 23:10,16 23:20 24:5 25:7 33:13 38:16,19 43:15 58:12,16 60:11 61:15 63:14,19 79:6,8 85:22 86:2 93:3 95:23 99:14 116:17 123:10 d/b/a 1:8 124:16 <hr/> E each 69:8 70:4 75:12 earlier 41:7 94:14 120:5 121:17 East 44:15 Eastern 1:3 124:21 education 47:1 EEOC 45:3,5 eight 120:4 either 4:14,20 Elaine 20:15,21 22:15 22:16 121:18 ELMORE 124:3 else's 70:2 71:13 72:8 76:10 employee 2:19 3:4,11 3:12 8:20 65:23 66:6 66:13 82:15 90:16 91:14,19 employees 16:2,5,7,23 82:19 108:21,22 122:9 employer 10:2 12:20 24:20 38:14 39:12 46:23 107:2,2,7,7 115:9 employers 12:8 13:2 39:1 60:13 113:13,20 114:2,19 employment 3:3 5:18 12:6,10,13 16:17 17:3,6 48:13 52:17 52:22 56:13,16,18 57:12 63:17 64:8 68:18 95:12 97:6 103:12,15,16 106:15 106:17 end 48:13 93:18,20,23 ended 12:6 48:16 106:15,17 ends 109:19 entered 42:20 entitled 78:12 97:12 99:6 Equal 97:6	errands 48:5 Esq 2:4,8 evaluations 88:13,15 even 6:2 33:20 event 30:17 ever 7:8 13:14 26:7,19 26:20 27:14 29:23 31:20 45:7,10,20 46:9 47:7 49:2,5,12 49:15 50:2 54:20 57:23 59:12,15 60:9 64:14 73:7 77:15,20 77:21 89:3 110:6 every 60:9 76:10 101:6 everybody 69:11,12 72:8,9 74:2 76:6,7 93:19,21 everything 22:11 30:5 103:5,22 117:6,21 120:1,5 everywhere 113:6,7 eviction 109:15 110:22 120:15 evidence 4:13 exact 42:23 43:3,13 45:13 exactly 29:21 32:22 33:19 34:11 41:21 46:6 48:8 55:5,15 67:6 100:9 examination 2:15 5:9 125:3 exhibit 2:17 3:1 8:4,7,8 8:17,20 9:7,19,23 10:5 11:11,20 12:2 13:18,20 14:2 23:18 24:3,6 58:7,9 63:2,3 63:6 64:4,6 66:3,5,11 66:19,22 67:11 76:11 76:13,16,19,22 78:4 78:6,11 79:10,14,20 80:5,19 81:1,8,15,21 81:21 82:2 83:9,11 85:8,10 90:12,14 91:11,13 92:5 96:2 96:14 97:9,12 99:3,5 100:10,12 105:16,17 106:1,7 115:9,10 116:8,11 Expiration 125:13 Expired 41:23 explain 15:13 19:14 61:13 62:4,22 65:2,6 72:13 81:16 103:18 extent 108:1 eye 68:22,22 69:3,3 <hr/> F facility 33:11	fact 98:21 fail 8:2 36:6,7 39:7,11 51:4 54:15 57:6 failed 7:5 11:19 38:8 59:21 60:18 107:16 115:11,12 failing 12:1 36:10 107:10,17 fair 76:8 79:5 82:9 109:5 fairly 99:22 fall 44:4 falsify 108:8 familiar 66:16,23 67:8 68:7 family 29:13 30:8,11 30:12,17 100:2,3 109:17 far 88:16 105:5 fastest 69:10 Fax 3:17 February 10:18,21 11:8 47:17 78:14,15 83:8 98:23 112:4 Federal 2:10 3:2 4:5 feel 49:5,12 54:20 57:23 82:9 100:5 101:1,17,21 103:23 104:2,15 felony 36:5 64:14,18 felt 101:15 104:13 few 68:22 84:17 Fifth 2:9 figure 19:18 51:20 60:20 61:18 figuring 110:17 file 95:10,11 97:5 99:18 99:20 filed 5:15 25:13 30:4 42:4,5,8,12,17,17 45:3,4,7,10 filing 4:18,22 37:20 fill 64:1 filling 112:11 final 3:11 90:15 finally 71:20 find 71:12 fine 42:3 43:10 79:8 99:14 118:8 finest 42:2 fingers 71:15 finished 69:6,16 89:14 fired 71:23 firewood 48:19,19,20 firing 87:9 first 5:6 9:6 11:18,22 32:2,5 47:16 54:3,9 55:1 59:6 62:13 70:7 79:13 80:12 84:14
--	--	---	--	--

88:19,19 96:19 124:9 Five 28:11 34:17 fixing 63:15 Fleming 48:22,23 49:11,16 52:4 folks 72:4 93:8 94:10 117:3 121:16 122:7 122:12 followed 86:15,16,17 following 87:19 88:4,5 follows 5:8 food 100:2 foregoing 125:1 forget 68:5 form 3:2,7 4:11 18:16 24:15 25:2 37:3,6 58:14 60:3 76:14,15 77:3 78:10,16 79:21 92:3 107:23 115:1 formality 4:9 former 122:8 forth 29:22 71:22 found 40:7,10 114:21 four 51:19 72:15,16 75:11 95:4,5,6 109:15 112:1 Frank 33:1 fraud 21:19 107:20 108:5,6,16 Frazier 20:15,21 22:15 22:16 121:18 free 3:6 66:17,22 67:3 67:8 Friday 73:23 86:10,17 86:17 90:6,8 friend 20:14 55:19,20 friends 20:6,11,12 from 2:18,19 6:23 8:8 8:12,21 9:1 15:22 16:10 17:16 23:5 25:4 30:6 31:23 36:9 37:13 38:3,3 39:16 47:14 59:5 61:18,19 61:21 62:12 77:16,17 80:1,3 81:15 82:14 82:20 83:6 85:11,13 85:17 89:12 92:8,14 95:16 98:13 99:1 104:18 106:6 107:15 109:15 110:22 111:19 112:4,17 114:20 115:4,6,12 116:12 118:2 119:19 120:6,9,11 full 51:12 further 4:16,23 123:14 125:6 Futral 68:7 117:14,14 117:16,18	future 12:8 105:5 109:14 G garnished 45:20 gave 53:7 77:20 79:16 86:5 87:2,7,8 105:4 GED 46:16,18 general 53:10 getting 56:15 88:22 99:9 105:5 112:12 113:3,12 114:20 115:6 120:16 give 6:5 31:6 65:23 67:4 77:3,12 123:7 given 5:23 12:12,14 14:17 15:1 23:7 38:22,23 39:7,12 57:4 96:4 106:4 108:22 giving 6:6 58:16 glad 101:10 Glenn 2:12 go 11:10 13:12 31:9,11 36:8,23 37:7 38:21 39:8 46:12,20 48:11 49:22 53:17 55:4 56:8 65:6,14 68:1 69:11,22 70:15,16,19 74:3 75:21 84:16 86:23 89:16,17,23 90:3,5 93:17 95:17 96:16,19 102:7,8 103:23 104:14 108:4 109:18 111:10 112:17 113:7 114:5 God 71:10 goes 5:20 30:15 70:14 going 5:16 6:8 8:6,6,19 13:20 15:7,18 18:6 24:5 31:2,13 33:14 38:7 42:19 53:8 56:16 58:9 60:2 64:6 65:5,16 66:5,21 68:14 69:21 71:2,11 71:14 73:18 74:16 76:13 78:9,11 79:9 83:11 84:18 85:1,10 86:22 88:5 90:7,14 91:7,13 95:20 96:20 97:11 99:5 100:12 101:4,20 105:15 106:18 114:6,9 116:10 121:1,8,10 gone 13:14 good 88:21 89:1 gotten 46:22 graduate 46:14 great 30:22 31:5	grown 70:13 guess 14:22 30:12 37:2 43:4,18 48:10 52:16 93:8 95:8,18 104:12 Guest 2:12 guilty 40:7,10 guy 39:20 48:15 85:3 101:13 guys 74:4 guy's 70:22 H H 47:16,16,21,21,22,23 49:2,6,22 50:6 52:3 80:18 habit 69:20 Haley 1:15 4:6 124:4 125:13 half 28:3 34:21 35:16 51:10 hand 71:21 86:14 handbook 3:5 65:23 66:7,14 67:13 handwritten 78:15 happen 15:15 happened 68:18 86:8 119:2 happening 27:1 happens 36:7 harassment 39:23 40:4 40:5 hard 70:3 110:3 harm 70:11 Harvey 120:20 having 5:6 62:1 heard 40:20 73:7 82:18 hearing 17:3 21:4 118:21 119:5,22 heated 86:13 held 53:9 help 21:15 55:16 69:7,8 69:11,13 70:3 71:13 72:9 74:3 75:4,6,7,20 75:22 76:2,4 93:7 102:19 103:7 122:2 helper 21:14 75:5,12 75:14,16,17 94:13,23 95:1 102:12 helpers 94:20 95:2 helpful 22:8 helping 72:8 74:9 93:10,19,21 her 37:20 56:5 109:18 hereto 4:21 5:1 Hicks 28:5,7 high 46:12 him 10:8 19:3 21:3 22:10,12 23:11 30:6 38:11 39:21 43:4,8	48:17 58:16 62:4,7 64:22 65:1 70:4,8,20 71:17 73:4,10 74:13 74:17 75:7 79:5 84:7 84:19 86:5 87:1,22 87:23 88:1,3 89:17 95:18 101:7,20,21 102:5,10 116:14,17 120:7 hire 114:16,23 115:14 hired 65:10,12,18 66:1 68:1 74:23 77:8 96:4 101:23 102:1 108:22 111:21 hiring 114:9 history 51:13 Holder 118:11 119:21 holding 122:16 home 75:21 hoping 109:2,4 hostile 84:16 hour 76:9 112:13,20 hours 69:13 74:1,10 76:9 89:11,13,13 94:6 112:14,21,22 113:1,2 house 39:20 102:8 household 109:19 Housing 2:22 24:12 43:23 109:15 110:23 120:10,12,19 Hughley 56:1,3,4 hunting 31:18 hurt 105:5 115:6 I idea 11:14,16,16 53:10 61:4 90:9 identification 8:5,18 13:19 24:4 58:8 64:5 66:4,20 76:12 78:5 83:10 85:9 90:13 91:12 96:3 97:10 99:4 100:11 105:18 116:9 illegal 7:2 49:8,19 51:6 54:17 57:8 59:12,15 60:22,23 immediate 30:11,12 impact 115:13 INDEX 2:15,17 3:1 indicate 67:14 indicated 11:23 12:2 105:23 indicates 67:19 99:11 indicating 91:19 individuals 116:23 Industrial 118:16,18 influence 36:22 114:15	114:22 info 114:12 information 24:21 43:7 114:12,20 117:1,4 initial 3:18 116:11 instead 31:2 117:15 interested 125:8 interrogatories 31:23 51:14 interrogatory 32:6 47:15 interrupt 70:17 interview 68:10,12 interviewed 68:4 interviews 68:2 113:8 113:13 introduced 4:19 5:12 involved 119:8 issue 76:1 issued 120:15 issues 118:4 J J 2:8 jail 33:22 39:22 40:4 55:3,4,6 109:23 James 2:4 January 10:18,21 53:1 61:22 63:23 77:13 78:7 82:3 96:9 Jennifer 28:1,18 29:4 55:20 Jennifer's 28:15,23 Jim 23:10 58:13 Jo 118:11 job 2:22 24:12 39:2 47:16 53:16,16 69:4 69:17,19 70:1,5,22 71:12 72:7 74:13 88:21 89:1 101:9 104:5,6,7,11 107:2 110:4,7 113:3,5 114:6 115:17,17 116:1 jobs 52:11 101:8 105:6 113:13 114:4 115:7 116:6 jot 15:15 jotted 15:9 Jr 2:4 3:10 judge 40:11,20,22,23 judgment 42:20,21 43:18 110:8 jumped 74:22 jumping 13:8 95:21 June 25:13 jury 30:16,18 40:20 just 5:18 11:17 13:9 18:6,10 19:18 20:23
--	--	--	--	---

21:3 22:11 23:10,13 23:17,20 25:18 30:16 32:1 33:9 37:20 42:2 45:18 48:5 51:12,18 51:20 53:9,15,15 58:16 60:8,20 61:16 61:17 62:2,23 65:19 66:21 70:9,11,13 71:15,20 72:3 73:10 74:7 75:21 76:7 79:9 84:21 85:20 87:6 88:22 89:18,19,19 93:20 94:2 98:5,12 99:10,15 101:11,17 101:22 103:4,19,19 104:10,12,14 106:18 110:2,5 112:15,23 113:21 114:8 119:9 123:7 Justice 40:8 juvenile 33:4	74:6,11,22 75:3 78:19 80:22 81:6,18 82:13,23 84:18 87:16 88:21 90:11 93:12,22 94:1,4,9,13 96:12,18 96:22,23 99:17,22 100:1 102:3,21 103:5 103:6,8,9 104:8,18 104:22 105:7 108:5,9 110:11,12,15,16 114:3,17 115:4,17 117:21,21 118:8,9,9 118:9,12 119:8,11,16 119:18 120:1 121:7 121:20 122:19 123:2 knowledge 21:10,13,20 22:8,17 30:2 95:15 102:4 117:7 121:5,14 122:3 known 38:14 knows 22:11 30:5 120:5 K-L-I-N-N-E-R 85:21	Lester 50:2,8,16 51:9 51:23 52:5 let 12:22 51:15 86:22 103:9 113:21 let's 32:1 59:3 63:18 license 26:3,5,7,20 27:1 47:3,7 Lie 105:1 lied 99:23 100:6,8 104:16 105:3 like 15:17 23:6 30:10 30:21,21 33:11 43:6 47:15 48:5 49:5,12 52:11,12 54:20 57:23 59:4 62:13 65:2,6 69:5 70:13 80:9,13 80:15,17,18 82:9 85:23 101:1,6,15,21 104:8,13,15,15 111:11 114:4 likely 116:23 line 29:11 Lisa 44:18 list 17:11 31:5 listed 12:19,21 13:3 81:21 115:20,20 116:22 117:3,10,20 118:7,10,13,14 litigation 36:20 little 5:12 13:9 45:22 71:21 81:16 95:21 live 27:10,12,21 lived 27:8,14,16 lives 27:20 29:15 living 27:4 29:13 LLC 1:8,9 98:21 124:16,17 load 76:6 loan 42:12,13,14 Logging 47:16,21 49:23 50:6 52:3 long 27:8,12 28:2 29:8 31:13,15 33:18 35:1 35:15,20 48:7,23 51:9 55:6 65:9 86:4 90:9 111:23 look 23:1,4 58:12,17 97:18 looked 25:18 67:7 looking 9:7 10:5 63:1 67:11 80:5,12 looks 47:15 59:4 80:9 80:12,15,17,18 85:23 91:19 looms 50:11,12 lose 39:2 lost 109:13,20 110:6 lot 27:11 110:2 Louis 80:1,22 81:2	82:14,21 83:18 89:21 92:9,14 118:3,4 Lowder 20:14,18 22:7 120:4 M M 85:23 machines 56:22 made 4:11 33:8 53:14 84:21 87:16 101:3 108:17 maiden 28:23 main 72:7 mainly 72:5 make 6:13,15 11:17 18:7 23:13,16,17 31:5 43:17 51:12 62:23 74:8 88:6 97:20 98:5,9,12 103:5,11 109:19 makeup 72:11 94:15 94:19,20 making 98:6,13 110:4 110:5 112:19 man 69:10 101:11,13 109:23 Management 2:18,20 7:20,23 8:9,13,15,21 9:1,5,14 10:2 11:23 12:6,9,12,14,19,21 12:22 13:3 38:3 51:16 52:1,6 53:20 54:1,4,21 57:14,15 57:21 58:2 61:6,19 62:12,17 114:21 115:12 manager 120:14 manner 4:20 125:8 many 33:20 53:23 72:14,16,16,19 75:8 75:8 89:11 95:2 112:14,21 March 86:7,8,9,11 111:1 Marijuana 7:15 mark 8:7,19 13:20 24:5 58:9 64:6 66:5,21 76:13 78:6,11 83:11 85:10 90:14 91:13 95:20 97:11 99:5 100:12 105:15 116:10 marked 8:4,17 13:18 24:3 58:7 64:4 66:3 66:19 76:11,15 78:4 80:23 83:9 85:8 90:12 91:11,14 96:2 97:9 99:3 100:10 105:17 106:7 116:8	married 28:2,17 29:2 56:5 matter 124:11 may 4:6,12,13,19 43:6 117:1 125:9 maybe 19:15 96:22 McNeal 1:18 2:4 mean 15:5,13 16:2,4,14 16:15 19:12,13,17 21:23 22:4 26:21 35:23 38:17 50:19 53:8,16 59:20,22 60:11 70:11,17 81:11 83:20 88:16 91:3 94:2,2 95:11 98:16 99:23,23 102:22 104:5 105:3 108:8 114:17,18 115:2 122:15 means 104:23 medical 44:16 82:7 medication 110:2 medications 6:21 meet 31:15 109:19 meeting 71:21 member 31:17 memory 43:11 mention 17:10 met 31:14 middle 1:2 98:1 124:20 might 14:23 41:5,6,12 46:22 54:5 96:23 97:1,1 112:15 117:4 122:15 military 70:9,10 Mill 50:3,8,16 51:9,23 52:5 mind 23:16 37:5 mine 20:14 28:16 minute 38:10 52:7 missed 110:13 Monday 89:23 90:5,7 money 110:4,5 120:18 month 111:3 months 33:20 35:2 112:2 more 22:10 76:2 93:17 110:9 morning 14:7 23:12 71:20 73:23 86:11 90:1 102:11 mouth 88:8 100:2 101:19 moved 95:16 MRO 80:1,22 81:2,12 82:14,21 83:18 89:21 92:9,14 118:3,5,10 118:13 much 32:21 34:20
K keep 6:22 15:9,16 70:12 74:12 76:9 101:9 Kent 3:10 25:4 85:11 119:23 kept 71:1 101:20 kicked 109:20 120:16 kids 27:22 100:1 109:13,17 kin 125:6 kind 5:20 13:8 15:10 32:1 70:3 74:22 110:4 Klimmer 85:11,17 Klimner 25:5 Klinner 3:10 25:6,7 85:13,21,22 89:16 119:23 120:2 Klinner's 99:1 knew 21:23 22:1,3 38:6 38:7 know 5:18 6:2,5 7:5,6 10:20 12:8,17 15:16 17:3 18:18 19:8,20 20:4 22:2 29:9,11,12 29:21,21 30:4,16 31:23 32:11,22 36:9 38:2 39:6,12 41:5,6,7 41:13 42:4,23 43:3,8 43:9,10 44:18 45:13 48:8,21 50:5 51:13 52:6,11,12 53:5 55:13,18,19 56:10,11 60:17 62:6,9,11 69:23 70:10,12 71:1 73:3,10,11,14,18	L Laborer 48:6 lack 8:15 lady 55:18,20 Lafayette 48:2 Laffiter 115:21 Langley 115:23 Large 1:17 4:8 124:6 125:15 last 7:3 13:6 28:16 40:2 41:2,20,21 42:17,18 67:13,19 68:6 73:21 85:2 101:5 113:1 lately 102:5 later 71:22 96:23 Law 1:18 2:9 Lawn 111:8,8,14 lawns 111:10,11 lawsuit 5:15,17 14:15 16:13 18:1 22:9,12 30:6 37:16,19 42:4 44:11 59:21 99:18 109:3 120:6 121:22 lawsuits 42:6,8 44:22 110:14 lawyer 19:21 23:8 81:5 96:19,20 99:17 116:12 119:12,13,13 119:16,19 121:20,21 122:15 Lee 33:1 left 12:21 13:1 73:2 76:2 84:23 102:13 legal 108:2 less 97:2	K keep 6:22 15:9,16 70:12 74:12 76:9 101:9 Kent 3:10 25:4 85:11 119:23 kept 71:1 101:20 kicked 109:20 120:16 kids 27:22 100:1 109:13,17 kin 125:6 kind 5:20 13:8 15:10 32:1 70:3 74:22 110:4 Klimmer 85:11,17 Klimner 25:5 Klinner 3:10 25:6,7 85:13,21,22 89:16 119:23 120:2 Klinner's 99:1 knew 21:23 22:1,3 38:6 38:7 know 5:18 6:2,5 7:5,6 10:20 12:8,17 15:16 17:3 18:18 19:8,20 20:4 22:2 29:9,11,12 29:21,21 30:4,16 31:23 32:11,22 36:9 38:2 39:6,12 41:5,6,7 41:13 42:4,23 43:3,8 43:9,10 44:18 45:13 48:8,21 50:5 51:13 52:6,11,12 53:5 55:13,18,19 56:10,11 60:17 62:6,9,11 69:23 70:10,12 71:1 73:3,10,11,14,18		

55:19 112:19 Municipal 40:12 Myracle 28:5,7,10 M.D 3:10	observed 95:17 occasion 75:4,5 occasions 26:17 41:11 October 112:4 off 43:17 49:1 71:16 74:5 85:1 98:16 101:2,4,21 110:10,14 offered 4:13 office 86:18,20 87:6 99:2,13 officer 7:12 36:17 37:8 37:9,15,18,22 38:2 38:13,23 39:8 82:8 118:22 119:22 Offices 1:18 Off-the-Record 63:13 63:20 86:3 123:9 often 50:18 Oh 10:15 16:7 19:6 25:19 33:13 50:4 52:18 98:18 106:2 118:21 okay 8:19 9:7,15 21:1 22:2 26:23 27:17 28:17 30:5 33:9 38:19 40:5,23 43:5 43:14 44:4,14 58:18 62:8,12,15,19,23 63:12,19 69:4,6,9,22 71:18 79:6,20 82:6 85:4,19 86:2 87:12 89:15 90:2 101:1 104:2 106:3,18 116:10,20 117:17 118:11,21 119:1,11 old 28:8 33:2 70:10 once 44:6 65:18 one 2:10 8:11 9:6 17:10 18:3,11 27:12 28:16 41:23 42:12 44:15,17 45:17 50:19 51:3 57:18 58:20 62:12,17 64:13 67:4 70:6 71:16,20 72:6,7,20 73:23 75:10 77:17 79:22 80:18 82:5 84:20,23 85:7 86:14 89:18 94:16 95:7 99:1 100:16 101:10 104:2,19,21 107:19 109:5 110:19,20 111:17 113:1 115:3 120:23 ones 10:17 only 26:23 58:10 60:21 72:5 95:15 101:13,13 103:1 onto 30:17 Opelika 2:22 24:12	27:5,11,15,17 29:14 29:15 30:8 32:10 40:12,14,15 43:23 46:13 48:2 120:10,11 Opportunity 97:6 order 19:10 112:11 ordinary 88:7 other 4:10,14,20 7:7,16 10:16,23 13:2,14,16 14:11,16 17:4,5,20 18:2,19 19:9,22 25:14 26:16,17 28:17 28:20,20 29:13 30:8 41:1,11,14,22 42:6 43:20 44:20 45:1,3,5 45:17,17 46:2,22,23 48:18 52:8,19 59:8 60:22,23 67:15 68:15 69:8 70:4,22 72:4,7 73:16,16,20 74:3 75:18 80:3 81:5,13 81:17 82:14,18 92:23 93:8 94:10 102:14 104:6,11 106:22,22 107:4,6 113:10,13,15 113:18,20 114:2 115:6 116:6 121:16 121:19 122:7 others 69:19 101:8 ourselves 5:12 out 14:23 18:8,9 19:18 33:16,21 34:22 35:18 39:22 40:8 41:1 43:16 48:1,3,11 51:20 56:7,11,15 61:18 64:1 69:12,13 69:15 71:13,20 72:4 72:8,12 74:1,3 75:4,5 75:6,20,22 76:2 85:7 86:14 88:2,6 93:8,14 93:16,18,20 94:4 95:2 100:2 101:16,22 102:9 109:2,20 110:2 111:10,11 112:7 114:21 120:16,17,23 125:4 outcome 36:20 outside 27:14,17 109:17 over 7:5 12:23 29:9,22 32:22 42:23 49:1 51:10 59:21 74:22 79:9 94:6 109:15 113:22,23 overtime 94:7 own 76:7 84:5,6 85:6 owned 48:15	page 64:11,13 pages 125:1 paid 85:6 94:1 111:1 112:12 paper 90:23 91:4,5,10 118:10 papers 23:5,7 118:13 paperwork 17:15 22:4 23:1,3 86:19 paragraph 67:13,19 98:2 Parkway 48:2 parole 7:12 33:17,18 34:22 35:1,18,20,22 36:17 37:8,9,15,18 37:22 38:2,13,23 39:8 55:11,13 part 97:23 118:15 parties 4:3,17 5:1 125:4,7 party 4:14,20 pass 51:4 57:18 111:17 passed 51:5 past 59:18,19,22 114:18 pay 43:17 44:6 69:6 89:3,9 93:22,23 109:18 payment 43:16 payments 43:17 pending 45:14 people 65:2 72:7 104:7 people's 104:11 performance 88:13,15 88:16,17 104:8 period 49:20 51:7 78:18 Perry 73:7,9,10 person 81:12 personal 84:5,6,9 87:4 87:5 personnel 95:10,11 Phillips 1:16 4:6 124:4 125:13 phone 16:16 phonetic 115:21 physician 84:6,9 place 2:10 11:7 12:14 13:3 27:11,17 48:15 50:2 56:10,15 59:8 116:3 placed 6:4 places 52:8 115:19 Plaintiff 1:6 2:3 124:13 plaintiff's 3:18 8:7 117:1 plan 43:16 89:16 plant 56:20 plea 32:17,18 34:14,15	35:11 please 103:8 pocket 85:7 point 56:7 65:19 policy 3:6 66:17,22,23 67:3,9,17,17,21 91:8 91:9 106:10 108:19 Poplar 31:12 positive 7:9,14,16 9:2 10:6 20:2 36:15 51:22 53:3,13 59:7 60:4 61:7,10,13 62:1 62:16,18,21 63:4,7,8 63:10 67:5 72:1 80:14,19 83:2,20 86:22 87:10 91:22 92:9,14 94:8 95:9 98:3 99:21 106:9,21 107:3,5 108:7 115:8 121:12 122:21 potential 107:7 113:20 114:2,19 Powell 44:18 pre 59:4 preemployment 50:21 54:11 57:4,16 59:5 108:23 111:12 preparation 24:10 25:15 prepare 19:19 PRESENT 2:11 pressure 110:3 previous 24:20 previously 29:2 prior 12:20 27:10 47:13 59:9 78:22 113:3 prison 32:23 36:14,23 38:7,21 39:9 41:2 48:10 56:7,11,15 probably 5:19 59:5 110:17 112:22 probation 33:16 Procedure 4:5 produced 14:14 17:12 17:13 105:14 Products 48:22 49:12 49:17 52:4 pronounce 80:11 proof 98:19,22 provide 100:3 provided 4:15,21 24:8 pull 76:6 pulled 86:20 Pulling 50:11 purpose 4:14 pursuant 1:14 4:4 67:16 put 39:22 40:4 50:11
N name 5:11 9:22 13:10 27:23 28:23 29:16 33:10 48:21 52:20 58:21,22 62:20 63:2 67:14 68:6 73:5 80:9 80:12,15 81:12 82:5 82:12 90:22 92:18 105:4 117:20 named 110:20 names 13:14 28:4 31:3 31:7 116:16,22 need 4:11 30:16 37:11 84:16 104:9 needed 37:9 negative 11:6 83:20 98:22 neither 104:18,19 125:6 never 37:5 56:5 72:9 82:12 91:17 New 31:12 next 33:14 65:11 115:17 116:7 117:20 118:7 119:23 nicknames 13:12 nine 29:9 120:9 nobody 107:14,14 114:18 None 41:3,16 North 2:9 notes 15:5,22 16:5,8 nothing 5:8 23:14 30:10 62:18,20 68:11 87:23 88:6 103:10 124:10 notice 2:21 3:15 13:21 99:6 110:22 120:15 notices 109:15 notification 3:13 96:5 Ns 86:1 number 9:16,18 25:22 26:5 43:13 58:23 61:6,9,20,23 63:5 64:7 67:12 76:21 80:6 84:2 119:23 120:4,9 124:22	O oath 6:4 object 18:16,23 37:3,6 60:2 78:9,23 92:3 107:23 115:1 objections 4:10,10	P		

50:11 71:15 101:16 104:7 109:16 114:14 putting 113:6 114:12	record 13:10 16:9 85:20 99:10 recorded 16:17,21 recordings 16:12,14 17:5 records 95:12 recovery 42:14 Red 13:13 references 114:20 refused 91:20 regard 103:22 regarding 117:18 regardless 4:21 regards 21:2 32:12 37:19 108:16 113:12 113:19 117:22 119:5 120:2 regularly 30:23 relate 16:13 related 21:18 102:15 Relations 118:16,18 released 39:16 remember 14:8 26:23 31:4,7 32:7 33:19 34:11 41:20 43:22 46:6,7 50:1 51:19 52:8,13,13,20 55:5,7 55:8,15,16 56:9,10 56:14,17 67:6 68:9 81:11 102:20 103:8 116:3 rent 44:5,8 rep 105:4 repeat 10:19 21:8 37:1 82:17 repo 39:20,21 109:23 110:1 report 2:19 3:12 8:8,20 9:8 91:15,23 reported 124:7 Reporter 1:16 4:7 96:1 124:5 125:14 REPORTER'S 124:1 representative 118:2 120:9,11 representing 4:3,17 5:14 request 24:21 required 77:3 requiring 77:7 reserved 4:12 resign 8:14 resolved 45:15 Resource 52:17,22 56:13,16,18 57:12 responded 87:1 response 20:2 37:23 51:22 53:4,13 59:7 63:4,7,11 67:5 80:14	91:22 94:8 95:9 98:3 99:21 106:21 107:3,5 108:7 115:8 121:12 122:21 responses 32:6 47:15 51:14 115:19 restrictions 36:1,4 result 11:5 25:4 39:13 40:6 83:2,21 85:16 results 3:8,9 9:19 11:11 24:18 25:8 36:18 77:15,16 78:7,12 79:1,4 81:3,7,15,20 82:1,14,20 83:12,14 83:23 85:16 86:5 92:15 93:1 100:7 106:11 118:5 125:8 Reuben 20:14,18 22:7 120:4 121:17 review 22:21,23 25:15 82:8 reviewed 24:10 revoked 26:20,21,22 47:8 rid 104:5,14 right 10:3,7 17:1 18:10 18:12 22:13 30:19 35:16 38:16 40:19 41:9 47:18,19 48:12 53:2,19 59:6,7 61:14 63:1,9 67:10,22 69:10 78:21 80:10,14 80:20 83:21 92:1,19 92:22 94:17 96:11 97:23 100:5 102:21 103:3,10 106:16,20 107:3 108:15 113:17 117:8,9 119:1 120:7 rights 3:15 99:7 ring 118:17 road 29:22 robbery 32:16 33:23 34:1,7 Robert 1:5,14 4:4 5:5 9:22 13:11 43:2 63:3 80:9,13 124:8,12 roll 63:18 Roto-Rooter 116:2 route 69:7,12,16 71:14 72:8 74:2,4 76:7,10 89:14 93:9 Rules 4:5 ruling 4:12 run 41:18 48:5 71:12 Russell 64:21 65:13 68:5 70:6,8,19,22 71:19 73:22 74:12 87:9,11 101:20 119:9	S SAITH 123:14 same 4:22 6:5 87:2 93:13 94:12 125:5 sample 9:9 77:12,16 sat 69:14 saving 109:14 saw 79:13 88:1,4 115:9 saying 16:2 18:8 39:3 62:5,21 69:20 71:7,8 87:10 90:18 91:1,7 98:9,11 105:12 106:8 108:10 113:14 115:2 122:20 says 10:10,12 118:14 schedule 89:21 school 46:12 screen 3:10 9:14 36:7 36:11 39:2 62:17,19 62:21 84:11,14,17,22 85:5,11 86:21 87:2,7 87:10 98:20,23 104:18 screening 71:23 screens 22:3 36:6 second 30:21 35:8 39:17 79:23 80:15 83:5,17 84:22 89:20 93:4 98:23 112:23 123:7 section 64:15 security 9:16,18 25:21 45:8 58:23 59:2 61:6 61:9,20,23 63:5 76:21 80:6 84:2 see 30:23 51:15 59:3 63:10 68:22 69:3 73:4 77:15,19,20,21 78:2,17,20 79:1,10 91:21,21 92:4 96:20 100:4 seeing 95:17 seek 12:5 seems 43:6 seen 8:9,11,21,23 11:19 13:22 14:1 22:4 58:19 62:13 66:7 78:16,18,22 90:16,19 90:20 91:15,17 95:10 95:12 97:13 99:7,8 99:15 100:14 102:5 110:19 116:13,15,16 116:18,21 Selling 48:19 send 36:13 79:18 80:22 sense 6:13,16 74:8 sent 13:21 18:9 79:17 99:12 107:1,6	sentence 32:19 34:16 35:13 serve 32:21 34:18 35:15 Service 111:8 Services 1:8 5:14 7:6 10:18 14:19 15:3,6 15:12,19 16:1 47:14 52:10 60:15 64:9 73:12,18 78:1 95:13 99:19 107:9 122:9 123:4 124:15 set 125:4 seven 119:23 Sherman 115:23 Sherry 17:17 24:22 she'll 39:5 shift 112:16 shop 48:6 shouted 74:10 show 8:6 23:11,11 36:17 89:18 showed 23:12 89:19 92:9 showing 92:14 shown 14:7 shows 9:9 10:6 11:15 80:19,21 83:20 sic 85:11 111:14 sign 41:18 90:18,22 91:4,5,7,9,20 signature 5:2 64:11 66:10 76:18 90:21 91:2 92:1,4,21,21 96:7 97:16 signed 82:7,11,12 91:18 signing 125:4 sill 48:17 since 10:16,22 11:8 12:20 13:1 31:14 39:15 41:1 60:7 61:2 61:5,17 110:6 sir 5:22 20:2 82:17 situated 88:23 situation 70:23 six 118:14 slander 17:19 slandered 104:22,22 105:2 106:23 slanderos 17:22 18:10 smart 88:8 101:19 Smith 2:8 smoking 69:15 social 9:15,18 25:21 31:17 45:7 58:23 59:2 61:6,9,20,22 63:5 76:21 80:6 84:2 sold 48:14
---	---	--	--	--

Solutions 11:3 111:22 113:4 116:2 some 5:16 16:2,7 18:5 39:21 47:12 114:14 114:14 116:22 118:13 somebody 16:15 70:1 71:13 74:8 76:10 107:9,15 114:16 123:1 someone 82:11 something 17:13 34:4 60:5 103:8 110:7 122:19 sometime 56:12 111:2 sometimes 6:10 15:14 75:6 112:15 somewhere 26:13 102:8 soon 116:5 sooner 76:2 sorry 47:23 70:15 71:18 105:21 110:13 122:23 sound 53:1 68:7 sounds 33:11 spare 75:11 speak 5:7 124:9 Speaking 68:11 specific 21:18 68:11 112:5 specimen 9:11 spoke 70:23 spot 56:22 73:2 spouse 55:18 spray 111:10,10,10 Springs 31:12 St 80:1,22 81:2 82:14 82:21 83:18 89:21 92:9,14 118:3,4 Stabler 57:22 Staffing 11:3 111:22 113:3 116:2 Standard 120:20 Stanford 120:20,21,22 121:13 start 12:22 63:21 65:19 79:9 101:12 113:21 116:6 started 52:9 56:13 60:13 64:2 65:15,20 65:22 111:5 116:7 state 1:17 4:8 13:9 124:2,6 125:14 statement 25:11 statements 15:21 108:17 STATES 1:1 Statute 4:15,21	stay 120:18 stays 90:9 still 35:21 42:19 45:14 74:1,3 87:9 102:3,10 111:1 stipulated 4:2,16,23 stipulation 1:15 4:1 stop 41:18 55:1 57:12 stopped 50:6 87:6 88:1 89:19 stops 75:3 store 69:14 88:2 Stratton 29:7 streets 120:17 stress 110:3 stressed 110:2 stuff 23:5 30:10,21,22 111:11 120:17 subject 38:6,21 54:8 56:23 58:4 67:15,20 67:20 submitted 17:16 65:9 105:23 substance 3:8,9 25:9 78:13 83:12 sued 110:8 suffering 110:6 Suite 2:5,10 Summers 20:8 21:1 75:17 Sunflower 1:8 98:20 124:16 supervisor 57:20 89:6 117:11 support 14:18 15:2 21:6 22:18 117:1,4 120:12 supporting 14:15 122:3 supports 21:10 117:7 117:23 121:5,6 supposed 69:5 82:10 sure 11:17 18:7 23:13 23:15 39:9 51:12 62:23 88:6 93:5 98:5 98:9,12 103:5 suspended 26:8,14,16 47:7 sworn 5:7 124:9 system 90:10	84:23 87:7 89:15,17 90:3,5,7 93:3 111:12 taken 1:14 4:4,6 6:21 10:16,22 11:7 20:1 24:1 82:3 83:1 93:6 taking 102:10 talk 12:18 16:4 18:20 19:12,22 20:11 21:1 37:15 52:7 57:11 68:14 73:18 81:1 talked 15:23 16:7 18:19 19:4,9,19,21 37:18 41:15 44:23 45:18 52:3,4,5 81:6,7 81:12,17,19 92:7,12 92:16 96:18 97:21 98:8,10,14,18 100:17 102:16 103:14,22 113:15 117:6,17,21 118:3,6 119:12 120:1 120:5 121:10,16,19 121:21,21 122:5,7,10 122:12 123:5 talking 16:6 18:20 23:22 45:22 59:23 60:1 72:13 77:19 85:3 taped 16:18 17:4 taxes 94:4 teed 74:5 tell 6:14 9:1 19:3 21:22 34:6 36:13 37:9,11 37:22 39:19 42:11 43:8 44:3 62:7 64:17 64:20,22 68:21 69:22 70:9,11 74:17 84:18 86:8 87:21 90:5,6 100:21 101:8,19 114:5,6,8,9 117:11 119:2 telling 6:23 74:11 96:14,15 107:9 tells 70:8 86:20 temp 52:12,14,18,19 112:1 temporary 52:11 ten 32:20 60:1 terminate 72:2 87:11 terminated 22:1 79:15 95:1 98:21 terminating 3:11 87:14 90:15 termination 2:22 23:5 24:13 91:6 terms 35:22 39:11 103:12,14,15 test 2:18 3:7,8,9,13 7:5 7:8,9,16,22 9:4 11:5 11:8,11,14,19 12:1	24:23 25:3,9 36:18 36:21 37:10,12 38:3 38:8 39:7,11 43:12 50:21 54:11 57:4,16 59:5,21 60:18 61:5,8 61:10,14,18,21 63:8 68:15,16 73:19 76:14 77:4,8,16,20 78:8,13 79:2 80:1,2,3,20 81:2 82:3,3,10,10,14,16 82:20 83:2,6,13,15 83:17,23 84:3,5,7,10 85:17 86:6 89:15,17 89:20 90:4 92:8,13 96:5,11,16 100:7 107:11,17 108:17,23 111:13 114:22 115:4 115:11,12 tested 9:2 38:12,15 49:3 51:2 60:4 62:1 testified 5:8 60:3 78:19 119:7,9,10 testify 122:17 testimony 6:4 60:21 61:16 testing 3:2 9:8,19 24:14 24:18 25:1 50:23 56:23 57:2 58:14 107:21 118:5 tests 10:16,20,22,23 14:9 38:20,22,23 49:16 50:15 51:4 54:8,13,15 57:6 58:4 theft 35:8 39:17 their 31:7 69:17 82:16 109:14 114:22 115:14 thereof 125:8 thing 85:2 101:5 104:3 105:14 things 15:15 67:15 68:23 74:15 88:23 think 14:12,23 17:10 21:5,9,13,15 22:7,16 57:13 59:8,11 65:11 68:8 73:23 82:1 100:7,18,21 102:1 103:10,14,15,19 105:2 107:13 113:7 114:15,19 115:13,18 120:4,11 121:13,23 123:1,7 third 30:21 34:7 though 6:2 55:21 56:5 thought 74:15 thousand 55:9 60:5 threatening 109:16 110:9 three 14:9 27:22 31:16	69:12,13 72:18,22 75:10 94:16 95:4,7 97:1 100:1 through 7:12 31:2 32:2 52:14 65:14,16 68:1 69:11 72:10 74:2 75:3,23 84:6,7 89:14 95:15 97:18 112:6 113:3 116:2 thrown 40:8 Thursday 1:19 86:16 88:1 124:23 Tiana 28:7,12,20 tie 53:6 till 112:4 time 4:12,12 9:13 10:3 11:18,22 13:5,6 14:20,21 22:6 26:23 32:2,4,5,21 33:2 34:18 41:2,12,23 48:9 49:20 51:7 53:22 54:3,9 55:2,6 55:21 59:6 60:9,21 70:6,7 72:23 73:21 74:10 79:13 93:2,7 93:10 96:15 101:6 102:9,11,18 109:4 110:6 111:19 116:4 119:14 121:1,23 122:1 123:6 times 44:20 51:3 53:23 54:2 60:23 69:13 tired 69:19 70:4,20,21 72:6 88:7 104:10,12 Tobi 5:11 Tobias 2:8 today 5:17 6:3,5,23 14:5 18:14 19:11,20 21:4 22:22 31:3 78:22 106:4 122:8 123:5 told 5:20 8:16 11:22 21:3 22:10,12 30:6 37:8,20 41:7 62:18 65:1 70:4 71:16 84:14,19 87:11 88:20 89:23 90:3,8 91:6 92:17 107:14,15 108:12,14 114:8,18 120:6 Tom 118:7 Toomer 27:7,21 top 76:22 topics 5:19 traffic 41:17,22 42:1 75:7 training 46:22 47:1 65:14,16 transcript 125:2
---	--	---	--	---

<p>treated 48:19 72:21 99:22 100:5 treatment 109:5 Trey 91:19 trial 4:19 32:17 34:14 35:11,12 122:13 trick 6:9 tried 39:20 trip 51:11 truck 21:14 73:1,4,23 74:9 75:12 85:2 86:15,16,17,19 88:3 88:9 95:16,17 101:3 101:5,11,14,16,22 102:5,6,12 Trucking 115:23 trucks 29:19,20 47:10 50:13 56:19 75:8,8 75:10,11 true 108:13 111:14 125:2 TruGreen 111:8,21 112:17,19 truth 5:7,7,8 6:23 21:17,17 108:9 124:9 124:10,10 truthful 108:9 try 111:2 113:5 trying 6:9 19:18 51:11 51:12,20 53:6,9 60:20 61:17 62:2 88:23 94:22 101:2,15 101:21 109:23 116:1 123:1 twice 54:2 109:18 Twin 115:22 two 7:3 27:9 28:3,13 32:22 35:2,16,16 51:3 54:2 55:9 60:4 64:11 69:12,13 71:22 72:1 74:1,9 76:9 86:1 86:21 96:22 97:1 102:1 111:5 type 47:1 56:18 typed 78:14 98:1 typically 89:11</p>	<p>79:23 106:20,20 understanding 7:19 83:5 understood 6:19 53:5 unemployment 12:5 14:10 24:17 45:23 46:1,3 118:19 119:3 UNITED 1:1 unlawful 25:12 until 51:17 60:13 86:7 86:7 95:1 111:21 urinal 77:12 urinalysis 76:14 77:4,7 urine 3:7 9:11 36:16 67:16,20 77:12,16 82:3 104:3,14,17,17 104:19 106:9 108:14 108:17 use 22:17 49:8 54:17 57:8 60:16 61:2 used 4:14,20 7:2 11:12 13:6 20:20 48:1 59:12,15 60:9,21,23 61:4,17 104:3 using 49:19 51:6 usual 86:19 U.S 124:19</p>	<p>want 11:10,17 18:7,18 19:20 47:12 57:11 62:23 63:14 71:13 81:5,18 96:18 97:18 98:5,9,12 103:4 117:2 119:11 121:20 122:14,17 wanted 33:9 122:13 wanting 76:4,6 wants 19:8 Ward 27:11 wasn't 33:7,19,20 36:15 37:21 55:20 72:23 76:8 82:9,16 84:19 91:6 99:22 100:4 104:19 119:19 Waste 1:9 2:18,19 7:19 7:22 8:8,12,15,21 9:1 9:4,14 10:2 11:23 12:6,9,12,14,19,21 12:22 13:3 38:3 51:16 52:1,6 53:20 53:23 54:3,21 57:14 57:15,20 58:2 61:5 61:19 62:12,17 98:20 114:21 115:12 124:17 way 37:5 84:16 94:5 95:15 101:16,17,22 104:4,13 106:17,18 110:11,17 ways 100:18 102:14 106:22,22 Wednesday 86:10,11 86:15 87:22 weeds 111:11 week 69:13 88:20 93:23 96:22 112:14 112:21,23 113:1,1,2 116:7 weekend 112:16 weeks 72:1 86:21 88:19 96:22 111:5 weld 56:22 well 9:15 14:22 15:14 17:13 18:5 19:15 21:23 22:3 26:23 36:1 39:1 52:3,16 59:20 60:11 62:12 70:9 71:10 72:14 74:6 79:15 80:12 81:17 82:5 84:20 87:5,8,9,11,12,22 92:17 95:8,12 99:9 101:1,9 102:23 103:19,23 104:2 105:3 108:18 112:22 114:7 116:17 118:19 120:14</p>	<p>went 9:6 11:3 48:2,10 50:19 52:1 53:21,21 55:3 57:13,15 69:4 73:13,14 74:7 85:5 87:3 88:2,8 89:15 96:10 109:23 110:1 were 6:6 8:12,12,13 14:9 15:18 16:6 24:9 32:3,11,11,23 33:2 33:16,18,21 34:3,12 34:22 35:3,9,18,20 36:9 39:15 40:3 41:4 41:13 42:1 48:9,14 49:3,5,12,19 50:15 51:2,6 54:8,17,20 55:6 56:5,19,23 57:4 57:23 58:4 59:20 65:10 66:16 67:8 68:1 70:18 72:16,19 73:17 74:16,16,18,23 75:8,11 76:4 77:8 78:20 89:21 90:6 93:9,10 94:5,10,10 94:12,19 95:22 96:4 96:4 100:6,7,18,21 101:23 102:7 103:13 103:16,20 104:21 105:2 106:23 107:10 107:15,17,19 108:21 111:21 112:5,5,9,12 112:14 114:20 116:1 116:5 weren't 93:12 108:22 we'll 12:17 52:7 we're 6:3 7:5 18:6 69:21 73:18 88:21,22 88:23 we've 23:22 44:22 45:22 52:3,4,5 98:10 113:15 117:6 121:10 122:7 while 5:12 15:5,11,18 48:9 49:2,8,11 50:15 54:17 57:8 58:1,4 60:16 67:7 73:17 74:18 77:21 78:2,17 78:20 79:10 88:10 89:3 white 72:19,21 85:3 94:16 95:8 117:10,12 117:15 121:2 whole 5:7 124:10 Wholesale 115:22 wife 20:4 27:22 28:23 31:14,15 100:1 109:17,17 wife's 27:23 Wilkes 40:11 William 57:22 73:7,9</p>	<p>73:10 Willie 20:8 21:1 75:17 witness 5:1,2,6 18:23 19:6,12,17 25:19 33:7 40:14,18 43:5 43:14 44:23 62:4,8 108:3 125:3 wood 48:19,22 49:11 49:16 52:4 word 84:23 103:18 words 39:21 71:8,22 72:2 84:18 work 8:15 11:3 20:9,18 20:21 29:4,6,11,18 48:5,7,11,23 49:22 50:2 51:9,23 52:14 52:19,22 53:17,20,21 53:22,23 56:8 59:9 59:13 73:13,14 83:3 86:4 88:16 89:11,22 90:3 93:17 102:10 103:20 104:6,7 111:23 worked 7:19 12:15 13:4 15:6,11 29:8,23 43:16 47:13 48:17 49:2,8,11 50:16 51:15,21 52:6,8 54:2 54:3,9,22 56:20 57:9 58:1,5 59:9 60:17 67:9 73:11 75:9 77:21 79:11 82:23 88:11 89:4 94:6 111:19,22 112:1 117:12 workers 46:9 working 15:19 49:6,16 50:6 51:17 54:18 55:1 56:10,13,14 57:12 63:21 69:16 73:17 74:18 78:2,17 78:20 94:10 101:23 111:4,5,7 112:7,14 112:21 workman 50:9,10 workplace 3:6 66:17 66:22 67:3,9 works 73:11 102:9 write 15:21 105:12 written 105:7,9,10 wrong 100:4,4</p>
<p>U Uh-huh 20:2 51:22 53:3,13 59:7 63:4,7 63:10 67:5 80:14 91:21 94:8 95:9 98:3 99:21 106:21 107:3,5 108:7 115:8 121:12 122:21 unclear 38:18 under 6:4 understand 6:2,13,15 11:17 16:3 62:2</p>	<p>V V 3:10 85:11 validity 92:8,13 various 15:15 verge 120:16 verification 2:22 24:13 24:19 25:10 78:13 83:13 verify 120:15 very 38:18 vet 70:10 violate 91:9 violated 106:10 108:18 violating 91:8 violation 55:11,13 violations 41:17 42:1 voice 69:20 74:11 vs 1:7 124:14</p>	<p>W W 47:22,23 49:2,6,22 50:6 52:3 wages 45:20 Wait 38:10 waiting 101:12 waived 4:19 5:3 125:5 waiving 4:22 walk 32:1 Wallace 115:21 Wal-Mart 112:7,9 113:4</p>	<p>Y yard 48:6 yarn 50:12 yeah 16:4,22 19:7,17 20:13 27:16 39:4 40:14 41:18 53:3 55:19 58:22,22 59:2</p>	

61:15 62:6 71:9	92:5 106:13	4/2/07 24:23		
77:10 79:22 86:12	15 3:13 95:23 96:2,15	40 94:6 112:22		
88:18,19 90:22 91:21	151 1:16 4:7 124:5	401(k) 109:18		
98:1,12 99:14 104:1	16 3:14 27:11 97:9,12	42 89:12,13		
108:8 109:12 110:22	17 3:15 33:3 99:3,5	420-88-2743 9:16		
117:16 118:23	1710 1:18 2:5	25:23 76:23		
year 33:19,20 34:21	18 3:16 100:10,12	426-B 27:7,21		
40:2 41:20,21 42:17	1819 2:9	428 76:22		
42:18 51:10	19 3:17 9:12 105:16,17	4492920 26:6		
years 7:3 27:9,13 28:3	106:7			
29:9 31:16 32:20,22	1978 32:7,13 46:19	5		
34:17 35:14,16,17	1980 47:17	5 2:16 3:2 58:7,10		
49:1 51:19 52:21	1986 35:6	58 3:2		
59:18,22,23 60:1,1	1990 26:13			
yell 72:3	1991 26:16 27:2 41:8	6		
yesterday 88:5	1999 41:4	6 3:3 64:4,7		
young 27:16 32:4		64 3:3		
Youth 33:1	2	66 3:4,6		
y'all 16:6 28:2 63:14	2 2:19 8:17,20 12:3			
69:3 70:10 71:10	78:14 115:10	7		
81:6,19 89:1	2nd 106:13 125:9	7 3:4 25:13 66:3,5,11		
	2/12/07 24:16 25:3	67:12		
	2/14/07 25:11 83:13	7th 86:9,11		
\$	2/2/07 24:20	76 3:7		
\$12 112:13	20 3:18 49:1 60:1 116:8	78 3:8		
\$125 94:1	116:11			
\$5,000 43:1	2000 47:6 51:18 53:11	8		
\$9 112:20	2001 54:5	8 2:18,19 3:6 66:19,22		
#	2002 7:13 13:7 55:9,10	82 34:11		
#151 125:13	56:12 60:19,22 61:1	83 3:9 34:11		
	61:2,5,17	85 3:10		
0	2003 56:12			
07 63:23 106:14	2004 53:1	9		
	2005 53:1	9 3:7 76:11,13,16,19,22		
1	2006 9:5,12 11:12 38:4	9th 86:7,8,9,10		
1 2:18 8:4,8 9:8,20,23	38:9 61:20	9/30/08 125:13		
10:6 11:11,20 63:2,3	2007 10:18,21,22 11:8	90 3:11		
63:6 115:9	25:13 61:22 77:13	900 2:10		
10 1:19 3:8 78:4,6,11	78:7,14,15 82:4 96:9	91 3:12 26:13		
79:10,14,20 80:5,19	2008 1:20 124:23 125:9	96 3:13		
81:1,8,15,22 82:2	22 77:13 78:7 82:4 96:9	97 3:14		
124:23	22nd 96:12	99 3:15		
10:05 1:20	23 63:23			
100 3:16	24 2:22 112:15			
1001 27:11	25 35:14			
105 3:17				
11 3:9 28:9 83:9,11	3			
116 3:18	3 2:21 13:18,20 14:2			
12 3:10 59:3 78:15 85:8	3/9/07 106:13,15			
85:10	3:07-CV-846-WKW			
12th 83:8 98:23	1:7 124:22			
12/19/2006 9:10	30 89:12 112:15			
12/4/01 59:4	32 89:13 113:1			
12/5/59 26:2	35203 2:10			
124 125:1	36 113:2			
125 89:10 94:3	36830 2:6			
13 2:21 3:11 27:13				
90:12,14	4			
14 3:12 27:13 91:11,13	4 2:22 24:3,6			



WASTE MANAGEMENT

**Drug Testing System
Lab Results Report:
drugtest**

3/29/2007

Employee: CANNON, ROBERT
Employee Number:
Employer: WASTE MANAGEMENT

1001 FANNIN DRIVE
SUITE 4000
HOUSTON, TX 77002

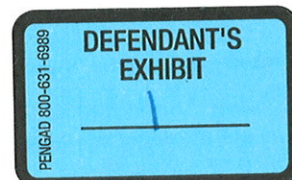
Employer Number: 2751
Location: WM OF AL - EAST
Location Code: D02572

Ordering Account Number: 021720D02572
COC Number: 0447984246
Specimen ID: 0447984246-1206
Reason: RANDOM
Modality: FHWA

Date Collected: 12/19/2006
Lab Received: 12/21/2006
Lab Reported: 12/23/2006
Date COC Rec: 12/26/2006
MRO Verified: 12/28/2006
Date Reported: 12/28/2006
MRO Operator: POHGTURNER

Result: POSITIVE DILUTE

Drug Class:	Result:
AMPHETAMINES	NEGATIVE
COCAINE	POSITIVE
MARIJUANA	NEGATIVE
OPIATES	NEGATIVE
PHENCYCLIDINE	NEGATIVE



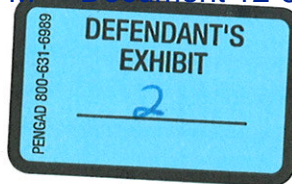
NOTE: All positive drug test results have been verified through GC/MS confirmation tests.

Laboratory: LABCORP

* You must treat the test as a verified positive test. You must not direct the employee to take another test based on the fact that the specimen was dilute.

Dr. Jerome Cooper D.O., Medical Review Officer
Pembroke Occ Health
2307 N. Parham Rd.
Richmond, VA 23229
Phone: 804-346-1010 Fax: 804-346-5050

IMPORTANT NOTE: Any person failing a drug or alcohol screen is ineligible to perform US Department of Transportation (DOT) safety-sensitive duties for ANY employer per DOT Regulation 49 CFR 40.285. Such persons must complete a Substance Abuse Professional (SAP) evaluation and treatment process before becoming eligible again.



Copy To:

☐ Employee☒ Employee's Personnel File☐ Other : _____

Employee Disciplinary Report

Name: Robert Cannon District: WM of AL-East Opelika
 Emp. No.: 072850 Dept.: Residential
 Date of Incident: 12-28-06 Time of Incident: 10:45 A.M.

Action to be taken: ☐ Warning ☐ Suspension ☒ Dismissal

This report is to be made part of the official record of the above mentioned employee.

Nature of Incident:

- | | |
|---------------------------------------|---|
| 1. () Unexcused Absence | 11. () Housekeeping |
| 2. () Tardiness | 12. () Improper Conduct |
| 3. () Drinking on Duty | 13. () Reporting under the Influence of Alcohol |
| 4. () Insubordination | 14. () Violation of Safety Rules |
| 5. () Dishonesty | 15. () Carelessness |
| 6. () Garnishments | 16. () Destruction of Company property |
| 7. () Failure to Follow Instructions | 17. () Defective and improper work |
| 8. () Fighting on Company premises | 18. () Theft (Stealing) |
| 9. () Leaving without permission | 19. () Violation of Company Rules & Conduct |
| 10. () Substandard Work | 20. <input checked="" type="checkbox"/> Other: <u>Tested Positive for Drugs "Substance Abuse"</u> |

Supervisor's Remarks: On 12-28-06 at approx. 10:45 A.M. I received a call from Pembroke acc. Health stating that Robert Cannon Tested Positive for Drugs. This will result in termination.

Witnesses: _____

Employee Remarks: _____

☐ PROBATIONARY EMPLOYEE

James White 12-28-06
 Signature of Supervisor Date

 Signature of Witness Date

I have read this report

 Signature of Employee Date

 Signature of Witness Date

THE ABOVE OFFENSE OR OFFENSES HAVE BEEN NOTED AND ARE MADE A PART OF THE ABOVE EMPLOYEE'S PERSONNEL FILE AS OF THIS DATE.

OFFENSE NUMBER 1 2 3 4 5

LAST OFFENSE _____

Personnel Consultant _____

Date _____

Additional Remarks: Employee Refused to sign.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,

Plaintiff,

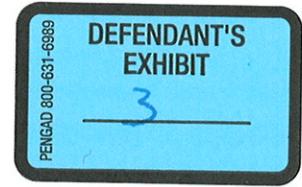
v.

**ADVANCED DISPOSAL
SERVICES ALABAMA L.L.C.,
d/b/a SUNFLOWER WASTE
L.L.C.,**

Defendant.

)
)
)
)
)
)
)
)
)
)
)

**CIVIL ACTION NO.
3:07cv846-wkw**



DEPOSITION NOTICE

Please take notice that beginning on **Wednesday, April 9, 2008, beginning at 10:00 a.m.**, and continuing from day to day until completed, **at the offices of James B. Douglas, Jr., McNeal & Douglas, Attorneys at Law, L.L.C., 1710 Catherine Ct., Suite B, Auburn, Alabama 36830**, defendant Advanced Disposal Services Alabama L.L.C., d/b/a Sunflower Waste L.L.C., will take the deposition of plaintiff **Robert Cannon** before an officer authorized by law to administer oaths and record testimony.

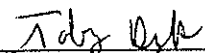
Pursuant to the Federal Rules of Civil Procedure, defendant requests that plaintiff bring the following documents with him to the deposition:

1. Please produce any documents, emails, writings, notes, tapes (video or audio), or correspondence that plaintiff contends support his claims.

2. Please produce any documents, emails, writings, notes, tapes (video or audio), or correspondence that plaintiff has that relates to or concerns his employment with defendant.

3. All income tax returns filed by plaintiff for the last four years or any and all other documents or writings including, but not limited to, W-2 forms, that show plaintiff's wages, earnings, and hours worked during the last four years.

4. Any and all documents, writings, notes, or correspondence reviewed by plaintiff or utilized by plaintiff to refresh his recollection in preparation for his deposition and/or the allegations in his Complaint.



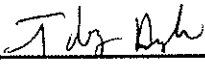
J. Tobias Dykes (ASB-0483-E66J)
E-mail: Tdykes@constangy.com
CONSTANGY, BROOKS & SMITH, LLC
Suite 900, One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203
Telephone: (205) 252-9321
Facsimile: (205) 323-7674

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following via U. S. Mail:

James B. Douglas, Jr.
McNeal & Douglas, Attorneys at Law, L.L.C.
P.O. Box 1423
Auburn, Alabama 36831

This the 27th day of February, 2008.



J. Tobias Dykes

03/13/2007 14:58

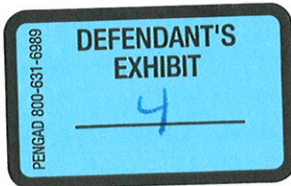
3347456783

OPELIKA HOUSING AUTH

PAGE 02/02

Opelika Housing Authority
P.O. Box 786
Opelika, Alabama 36801
(334)745-2250
Please Fax to (334)745-6783

334-283-2670

JOB TERMINATION VERIFICATION

Name: Robert Cannon
Address:

Soc. Sec. No.:

Date: 3-12-07

To Whom It May Concern:

The above named person is currently renting through our Public Housing Program. They have reported to us that your company no longer employs them. To make necessary changes we must have written verification of this information. Your promptly reply to the information requested below will be greatly appreciated. All information is kept confidential. Thanks for your cooperation in this matter.

Sincerely,

I authorize the release of this information to the
O.H.A.

[Signature]
Housing Authority Representative

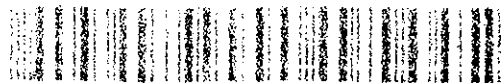
[Signature]
Resident

1. Employed Since 1-23-2007 Last date employee worked 3-9-2007
2. Was employee ☒ terminated, ☐ laid off, or ☐ voluntarily quit?
 - (a.) If laid-off: Permanent or temporary?
 - (b.) If temporary, how long do you expect lay off to last?
3. Date employee received last check 3-16-07

Additional remarks:

Terminated due to violation of drug & alcohol policy

Firm Name: Sunflower Waste, LLCPhone No.: 334-252-0458Signed: [Signature]Date: 3-13-07



0121674 542214 SPECIMEN ID NO. 800.877.7484

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

LAB ACCESSION NO.

A. Employer Name, Address, I.D. No.

ADVANCED SPECIAL SERVICE

700 DAVIS

3000 GATE PARKWAY NW

DORCEVILLE AL 36744

PH 404-773-7000

FAX 404-636-6650

B. MRO Name, Address, Phone and Fax No.

MONROE PARAFIBRE CO

4042550026

2095 JEFFERSON BLVD

GRAND BLVD 65013

PH 404-632-4099

FAX 404-661-1631

C. Donor SSN or Employee I.D. No.

D. Reason for Test:

☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident

☐ Return to Duty ☐ Follow-up ☐ Other (specify)

E. Drug Tests to be Performed:

☒ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify)

F. Collection Site Name:

TELEPHONE FAMILY CARE

Address:

115 BERRY AVE NW

City, State and Zip:

DORCEVILLE AL 36744

Collection Site Code:

Collector Phone No. 334-283-3477

Collector Fax No. 334-283-4362

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark

Specimen Collection:

☒ Split ☐ Single ☐ None Provided (Enter Remark) ☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable Federal requirements.

Signature of Collector

Time of Collection

AM

PM

(Print) Collector's Name (First, MI, Last)

Date (Mo./Day/Yr.)

SPECIMEN BOTTLE(S) RELEASED TO:

☐ Quest Diagnostics Courier ☐ FedEx ☒ DHL / Airborne ☐ Other

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB: ☒

Signature of Accessioner

(Print) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

☒

Signature of Donor

(PRINT) Donor's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Daytime Phone No.

Evening Phone No.

Date of Birth

Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE: ☐ ADULTERATED ☐ SUBSTITUTED ☐ DILUTE

REMARKS

☒

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SECONDARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON

☒

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

OMB No. 0930-0158

STATE OF ALABAMA
DEPARTMENT OF INDUSTRIAL RELATIONS
HEARINGS AND APPEALS DIVISION
MONTGOMERY, ALABAMA 36130



DECISION ON UNEMPLOYMENT COMPENSATION CLAIM

CLAIMANT

ROBERT J CANNON
426 B TOOMER CT
OPELIKA AL 36801

EMPLOYER

JACKSON II DONWARD W ETAL
SUNFLOWER WASTE LLC
PO BOX 781150
TALLASSEE AL 36078-1150

APPELLANT : EMPLOYER
LOCATION : MONTGOMERY
(TELEPHONE)
OC NO. : 00-74

DATE MAILED : 04/20/07
CASE NO. : 03502-AT-07
S. S. NO. :
HEARING DATE : 04/13/07

APPEARANCES AT THE HEARING: Claimant and employer representative with observer

ISSUE(S): Whether the claimant was discharged or removed from work for a dishonest or criminal act committed in connection with work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous warning or for the refusal to submit to or cooperate with a blood or urine test after previous warning. Section 25-4-78(3)(a) Code of Alabama 1975

Availability for work. Section 25-4-77(a)(3) Code of Alabama 1975

FINDINGS: This employer, with whom the claimant had most recent bona fide work, appealed an Examiner's determination on a claim for unemployment benefits.

The claimant worked for the listed employer as a CDL driver from January 23, 2007, until March 9, 2007. The employer requires a pre-employment drug test, which the claimant took on January 22, 2007, before beginning work the following day. Because the employer was in the process of changing medical review officers, the results were not returned immediately. When the manager noticed the misspelling of the claimant's name, although the social security number was correct, the manager then asked the claimant to take another drug test, which he did, on February 12, 2007. On that same day, approximately two hours later, the claimant went to his own doctor, took the drug test, and returned the results to the employer, showing that it was negative. The results of the second drug test completed by the employer were also negative. The employer has a drug policy, which has been in effect for at least seven years. The claimant received a copy of the policy. The employer falls under the Department of Transportation's regulations. All employees are subject to drug testing. Their doctor's office collects the specimen, which is then sent to the medical review officer for the results. The results of the pre-employment test were returned on March 6, 2007. The manager's supervisor instructed him to terminate the claimant, based upon the positive results of the first drug test taken, which he did on March 9, 2007.

CONCLUSIONS: Section 25-4-78(3)(a) of the Law requires a disqualification of an individual discharged or removed from work for a dishonest or criminal act committed in connection with work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous

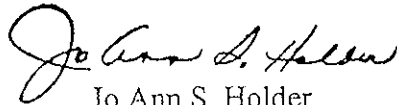
warning or for the refusal to submit to or cooperate with a blood or urine test after previous warning. The evidence presented in this case shows that although the claimant was given a test before employment, which was returned positive, his subsequent tests, as an employee of the company, were negative. In addition, he provided another drug test result showing negative from his own personal doctor. The evidence does not show that he would be subject to a disqualification under this section of the Law.

Section 25-4-77(a)(3) of the Law provides that an unemployed individual shall be eligible to receive benefits with respect to any week in a benefit year only if the Director finds that he is physically and mentally able and available to perform work of a character which he is qualified to perform based upon past experience or training. The evidence does not show that he would be unavailable for work. He would, therefore, not be subject to a disqualification under this section of the Law.

DECISION: The Examiner's determination under the provisions of Section 25-4-78(3)(a) of the Law is affirmed. No disqualification is imposed.

The claimant remains eligible for benefits under Section 25-4-77(a)(3) of the Law.

APPEAL RIGHTS: This decision becomes final unless an application for leave to appeal to the Board of Appeals is received in writing at the Department address above or by fax at 334-242-0539 on or before the **FINAL DATE OF May 7, 2007.**



Jo Ann S. Holder
Administrative Hearing Officer

JSH/amr

02/06/2007 13:10 FAX

FAX NO. 3342832670

P. 01

002/002

St. Louis
MRO, Inc.

3885 Jeffco Boulevard
Arnold, Missouri 63010
636/532.4099

ATTENTION:

Tom Davis
Advanced Disposal Services, Inc. - DOT
8798 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Ranhon

Other ID:
SSN:

Results of DOT Controlled Substance Test

Record Status: Positive
Test Type: Pre-Employment
Collection Date/Time: 01/22/2007 2:49 PM
Batch ID: 20070202
Specimen ID: 81742550
Date COC Received: 01/22/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
605 E State Parkway
Schaumburg, IL 60173
Collection Site: TALLASSEE FAMILY CARE
115 HERON HILL ROAD
TALLASSEE, AL 36078
Specimen Collector: JANE S BELLEW

Substance Tested Result
Amphetamines Negative
Marijuana Negative
Opiates Negative

Substance Tested Result
Cocaine **POSITIVE**
Phencyclidine Negative

**MRO UNABLE TO CONTACT
TEST IS POSITIVE:
COCAINE**

Horacio Marafioti M.D. MRO

2/2/2007

Verification Data

Results for Robert Ranhon, Other ID:

Printed on 2/2/2007 at 6:58:42PM

No - Sign

04/02/2007 12:37 19342422157

WALLACE BUILDING

PAGE 82/82

EXHIBIT-3

PREVIOUS EMPLOYER INFORMATION REQUEST

FROM: ANN DORA'S
504 B FAIRVIEW ST
MONTGOMERY, AL 36104
334-224-0591 FAX 334-242-2157
CONTACT: ANTHONY FLOYD

PREVIOUS EMPLOYER
COMPANY: SUNFLOWER WASTE, LLC
STREET: 115 HARKEN HILL RD
CITY: TAUNUSSEE AL 36078
PHONE: 228-283-0657 FAX 228-242-70

THE PERSON NAMED BELOW HAS MADE APPLICATION FOR EMPLOYMENT AT ANN DORA'S AS A DRIVER. YOUR NAME WAS GIVEN AS A PAST/PRESENT EMPLOYER. YOUR PROMPT ATTENTION AND RESPONSE WILL BE GREATLY APPRECIATED.

APPLICANT'S NAME Robert Cannon DATE 3/22/07
SOCIAL SECURITY # _____ DRIVERS LICENSE# _____ STATE AL

ABOVE FILLED OUT BY APPLICANT

DATE OF EMPLOYMENT 1-23-07 TO 3-9-07 POSITION HELD Res Driver
INDICATE EQUIPMENT OPERATED: ☒ STRAIGHT TRUCK ☐ TRACTOR TRAILER

TYPE OF TRAILER _____
TYPE OF DRIVING? ☒ LOCAL ☐ OVER THE ROAD
IN COMPLIANCE WITH 49 C.F.R. 382, WAS THIS APPLICANT SUBJECT TO FEDERAL ALCOHOL & DRUG TESTING? ☒ YES ☐ NO

DID HE/SHE TEST POSITIVE ON DRUG TEST? ☒ YES ☐ NO ALCOHOL ☒ YES ☐ NO
IF YES, GIVE DATE AND EXPLAIN 3-9-07 / results came back in reference to pre-employment testing - had to take 2 tests - 1st test had wrong SSN # on it.
HAS THIS PERSON, IN THE LAST 2 YEARS, HAD ANY DRUG OR ALCOHOL VIOLATIONS? ☒ YES ☐ NO So we retested
IF YES, EXPLAIN _____

REASON FOR LEAVING See Above
Terminated!

WOULD YOU REHIRE? ☒ YES ☐ NO IF NO, PLEASE EXPLAIN violation of drug & Alcohol policy

WAS THIS PERSON INVOLVED IN ANY ACCIDENTS? ☒ YES ☐ NO IF SO, WHEN? _____

WAS ACCIDENT EMPLOYEE'S FAULT? ☐ YES ☒ NO IF YES, EXPLAIN N/A

NAME OF PERSON SUPPLYING INFORMATION: Sherry Beasley TITLE Office Manager
SIGNATURE Sherry Beasley DATE 4-2-07

APPLICANT WAIVER
FORMER EMPLOYER: _____ DATE _____

I HEREBY AUTHORIZE YOU TO RELEASE THE ABOVE INFORMATION ALONG WITH ANY MEDICAL INFORMATION THAT MIGHT AFFECT MY ABILITY TO PERFORM IN THE POSITION I HAVE APPLIED FOR.

APPLICANT'S SIGNATURE Robert Cannon WITNESS Bill Lucas

Please Fax RESPONSE: 1-334-242-2157

SPECIMEN ID NO.

1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

LAB ACCESSION NO.

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

C. Donor SSN or Employee I.D. No.

D. Reason for Test: ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident

☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Name:

Collection Site Code:

Address:

Collector Phone No.:

City, State and Zip:

Collector Fax No.:

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, Enter Remark _____

Specimen Collection:

☐ Split ☐ Single ☐ None Provided (Enter Remark) _____

☐ Observed (Enter Remark) _____

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable Federal requirements

Signature of Collector

Time of Collection

AM
PM

(Print) Collector's Name (First, MI, Last)

Date (Mo./Day/Yr.)

SPECIMEN BOTTLE(S) RELEASED TO:

☐ Quest Diagnostics Courier ☐ FedEx

☐ DHL / Airborne ☐ Other _____

Name of Delivery Service Transferring Specimen to Lab

RECEIVED
AT LAB: ☒

Signature of Accessioner

Primary Specimen
Bottle Seal Intact

☐ Yes

☐ No, Enter Remark Below _____

SPECIMEN BOTTLE(S) RELEASED TO:

(Print) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.)

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector, that I have not adulterated it in any manner, each specimen bottle used was sealed with a tamper-evident seal in my presence, and that the information provided on this form and on the label affixed to each specimen bottle is correct.

☒

Signature of Donor

(PRINT) Donor's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Daytime Phone No. () _____

Evening Phone No. () _____

Date of Birth

Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE

☐ POSITIVE

☐ TEST CANCELLED

☐ REFUSAL TO TEST BECAUSE:

☐ DILUTE

☐ ADULTERATED

☐ SUBSTITUTED

REMARKS

☒

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SECONDARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED

☐ FAILED TO RECONFIRM - REASON _____

☒

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

OMB No. 0930-0158

KENT V. KLINNER, JR., M.D.
1711 PEPPERELL PARKWAY
OPELIKA, AL 36801
(334)745-7098

EMPLOYEE NAME Robert Cannon COLLECTION DATE 2-12-07

ID/SSN _____

TIME OF COLLECTION 10:18 am

NAME OF COLLECTOR TJ Curtis

Robert Cannon
DONOR'S SIGNATURE

TJ Curtis
COLLECTOR'S SIGNATURE

LOCATION OF TEST: 1711 PEPPERELL PKWY, OPELIKA, AL 36801

TIME OF TEST 10:20 (AM/PM)

TEST OPERATOR TJ Curtis

TESTING RESULTS

COCAINE neg
AMPHETAMINES neg
THC neg
OPITAES neg
PCP neg

REMARKS _____

CUSTODY AND CONTROL

SPECIMEN RECEIVED BY TJ Curtis DATE 2-12-07
SPECIMEN DESTROYED BY TJ Curtis DATE 2-12-07

Robert Cannon
DONOR'S SIGNATURE

TJ Curtis
COLLECTOR'S SIGNATURE

ATTN:

Jennifer Barnes

St. Louis

MRO, Inc.

3895 Jeffco Boulevard
Arnold, Missouri 63010
636/532.4099

ATTENTION:

Tom Davis
Advanced Disposal Services, Inc. - Dot
9798 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Cannon
Other ID:
SSN:

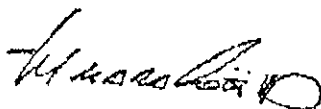
Results of DOT Controlled Substance Test

Record Status: Negative
Test Type: Pre-Employment
Collection Date/Time: 02/12/2007 08:42 AM
Batch ID: 20070214
Specimen ID: 5662214
Date COC Received: 02/12/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
506 E State Parkway
Schaumburg, IL 60173
Collection Site: TALLASSEE FAMILY CARE
115 HERON HILL ROAD
TALLASSEE, AL 36078
Specimen Collector: JANE BELLEW

<u>Substance Tested</u>	<u>Result</u>
Amphetamines	Negative
Marijuana	Negative
Opiates	Negative

<u>Substance Tested</u>	<u>Result</u>
Cocaine	Negative
Phencyclidine	Negative



Horacio Marafioti M.D. MRO

2/14/2007

Verification Date

State of Alabama Unified Judicial System Form C-59 Rev. 01/2007	STATEMENT OF CLAIM Unlawful Detainer Sections 6-6-310, et seq., Code of Alabama 1975	Case Number <div style="font-size: 1.5em; font-family: cursive;">DV07-341</div>
--	--	--

IN THE DISTRICT COURT OF	Lee	COUNTY, ALABAMA
<u>Opelika Housing Authority</u>		<u>Robert Cannon</u>

PLAINTIFF(S)	DEFENDANT(S)
ADDRESS: <u>1706 Toomer Street</u> <u>Opelika, AL 36801</u>	ADDRESS: _____
PLAINTIFF'S ATTORNEY: _____	
ADDRESS: _____	

COMPLAINT

FILED

JUN 07 2007

IN OFFICE
CORINNE T. HURST
CIRCUIT CLERK

1. Plaintiff(s) demands the right to possession from the defendant(s) of the house, apartment or other dwelling located at
406 B Toomer Street, Opelika, Alabama 36801
2. Defendant(s) no longer has the right to possession because: The tenant is in violation of their rental lease for non-payment of rent.
3. Defendant(s) right of possession has been lawfully terminated by written notice.
4. Plaintiff(s) also claims the sum of \$ _____ from the Defendant(s) consisting of: rents, late charges and attorney fees (if applicable) and other charges.
5. Plaintiff(s) also claims future rents, late charges, attorney fees (if applicable) and other charges until Plaintiff(s) recovers possession of the leased premises.

Clerk: <u>CORINNE T. HURST</u> Address: <u>CIRCUIT CLERK</u> <u>2311 GATEWAY DR</u> <u>OPELIKA AL 36801-8807</u>	<div style="font-size: 1.2em; font-family: cursive;">Hailey Bridge</div> Plaintiff/Attorney Signature Phone Number: <u>(334) 745-4171</u>
---	--

NOTICE TO DEFENDANT(S) - READ CAREFULLY

This complaint for eviction must be answered by you within seven (7) days after these papers were either served or posted at the leased premises as provided by law. Your answer must be received by the Court Clerk at the above address within the above seven (7) days. A copy of the answer must be sent to the Plaintiff(s) or Plaintiff(s)' Attorney at the above address. If you file an answer a notice of trial will be mailed to you; otherwise, a judgment of eviction may be entered against you, and after fourteen (14) days from date of service, a money judgment may be entered against you.

Return on Service (check the appropriate box)

<input type="checkbox"/>	Personal service on _____	by _____	on _____
	(name)	(signature)	(date)
<input type="checkbox"/>	Mailed (with adequate prepaid postage) by _____	on _____	
	(signature)	(date)	
<input type="checkbox"/>	Posted on premises on _____	and mailed by _____	on _____
	(date)	(signature)	(date)

Court Record (Original)	Plaintiff (Copy)	Defendant (Copy)
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35061997

LOCATION CODE WMALE4

SPECIMEN ID NO.

LABORATORY ACCESSION NO.

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

Employer Name, Address, I.D. No.

WM OF AL-EAST
4210 LEE ROAD 183

OPELIKA AL 35801

B. MRO Name, Address, Phone and Fax No.

MAIL ALL PAPERWORK TO:
DFU/ABJ/JAMES R BABER MD
PO BOX 8520

LITTLE ROCK AR 72215

Ph: (800) 762-3623 Fax: (501) 664-8885

C. Donor SSN or Employee I.D. No.

D. Reason for Test:

☐ Pre-employment☐ Random☐ Reasonable Suspicion/Cause☒ Post Accident☐ Return to Duty☐ Follow-up☐ Other (specify)

E. Drug Tests to be Performed:

☒ THC, COC, PCP, OPI, AMP☐ THC & COC Only☐ Other (specify)

F. Collection Site Address:

HOUSTON CLINIC
101 E. UNIV DR
HOUSTON AL 36332

Collector Phone No.

(334) 521-7758

Collector Fax No.

DEFENDANT'S
EXHIBIT

5

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature
between 90° and 100° F? ☒ Yes ☐ No, Enter Remark

Specimen Collection:

☒ Split☐ Single☐ None Provided (Enter Remark)☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal Requirements.

X L.A. Browning
Signature of Collector4:35 AM
Time of Collection12/01/01
Date (Mo./Day/Yr.)

SPECIMEN BOTTLE(S) RELEASED TO:

VIA COURIER
SALED IN BTL

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X

Signature of Accessioner

(PRINT) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Primary Specimen
Bottle Seal Intact☐ Yes☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X Robert Cannon
Signature of Donor

(PRINT) Donor's Name (First, MI, Last)

12/14/01
Date (Mo./Day/Yr.)

Daytime Phone No.

Evening Phone No.

Date of Birth

Mo./Day/Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE☐ POSITIVE☐ TEST CANCELLED☐ REFUSAL TO TEST BECAUSE:☐ DILUTE☐ ADULTERATED☐ SUBSTITUTED

REMARKS

X

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED☐ FAILED TO RECONFIRM - REASON

X

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

DEFENDANT'S
EXHIBITDRIVER'S
APPLICATION FOR EMPLOYMENT

Company Sunflower Waste
Russell Davis
 Address 1303 Washington Blvd.
Talladega, Alabama 36078
 City (866) 252-0488 Zip

(Answer all questions - please print)

In compliance with Federal and State equal employment opportunity laws, qualified applicants are considered for all positions without regard to race, color, religion, sex, national origin, age, marital status, veteran status, non-job related disability, or any other protected group status.

Date of application 1-22-07

Position(s) Applied for DRIVER
 Name CANNON ROBERT JAMES Social Security No.
 Last First Middle

List your addresses:

Current Address: City
 State Zip Code Phone Long? 1 yr
 Previous Address: City State & Zip Code How Long? yr/mo.
 City State & Zip Code How Long? yr/mo.
 City State & Zip Code How Long? yr/mo.

Do you have the legal right to work in the United States? YES
 Date of Birth 12-5-59 Can you provide proof of age? YES
 (Required for Commercial Drivers)

Have you worked for this company before? NO Where?
 Dates: From To Rate of Pay Position

Reason for leaving

Are you now employed? NO If not, how long since leaving last employment? 1 MONTH

Who referred you? FRIGHT Rate of pay expected

Have you ever been bonded? Name of bonding company
 (Answer only if a job requirement)

Have you ever been convicted of a felony?

If yes, please explain fully on a separate sheet of paper. Conviction of a crime is not an automatic bar to employment. All circumstances will be considered.

Is there any reason you might be unable to perform the functions of the job for which you have applied (as described in the attached job description)?

If yes, explain if you wish.

EXPERIENCE AND QUALIFICATIONS - OTHER

SHOW ANY TRUCKING, TRANSPORTATION OR OTHER EXPERIENCE THAT MAY HELP IN YOUR WORK FOR THIS COMPANY

I CAN OPERATE FRONT LOADER, SIDE LOADER, ONE ARM LOADER,
REAR LOADER, ETC.

LIST COURSES AND TRAINING OTHER THAN SHOWN ELSEWHERE IN THIS APPLICATION

LIST SPECIAL EQUIPMENT OR TECHNICAL MATERIALS YOU CAN WORK WITH (OTHER THAN THOSE ALREADY SHOWN)

TO BE READ AND SIGNED BY APPLICANT

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

I authorize you to make such investigations and inquiries of my personal, employment, financial or medical history and other related matters as may be necessary in arriving at an employment decision. (Generally, inquiries regarding medical history will be made only if and after a conditional offer of employment has been extended.) I hereby release employers, schools, health care providers and other persons from all liability in responding to inquiries and releasing information in connection with my application.

In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in discharge. I understand, also, that I am required to abide by all rules and regulations of the Company.

1-22-07

Date

Robert A. Cannon

Applicant's Signature

PROCESS RECORD

APPLICANT HIRED _____ REJECTED _____

DATE EMPLOYED _____ POINT EMPLOYED _____

DEPARTMENT _____ CLASSIFICATION _____

(If REJECTED, SUMMARY REPORT OF REASONS SHOULD BE PLACED IN FILE)

THIS SECTION TO BE FILLED IN BY RESPONSIBLE OFFICER OR COMPANY REPRESENTATIVE

	SUPERIOR	GOOD	FAIR	BELOW AVERAGE	POOR	WRITTEN RECORD ON FILE
1. APPLICATION						
2. INTERVIEW						
3. PAST EMPLOYMENT						
4. WRITTEN EXAM						
5. ROAD TEST						
6. CRIMINAL AND TRAFFIC CONVICTIONS						

SIGNATURE OF INTERVIEWING OFFICER _____

TRANSFERS

FROM: _____ TO: _____	FROM: _____ TO: _____
DATE: _____	DATE: _____
REASON FOR TRANSFER: _____	REASON FOR TRANSFER: _____
FROM: _____ TO: _____	FROM: _____ TO: _____
DATE: _____	DATE: _____
REASON FOR TRANSFER: _____	REASON FOR TRANSFER: _____

TERMINATION OF EMPLOYMENT

DATE TERMINATED _____ DEPARTMENT RELEASED FROM _____

DISMISSED _____ VOLUNTARILY QUIT _____ OTHER _____

TERMINATION REPORT PLACED IN FILE _____ SUPERVISOR _____

PAGE 4 OF 4 (Rev. 4/92) 421

ACCIDENT RECORD FOR THE PAST 5 YEARS (SEE INSTRUCTIONS) IF MORE SPACE IS NEEDED, ATTACH SHEET IF NONE, WRITE NONE

DATES	NATURE OF ACCIDENT (HEAD-ON, REAR-END, UPSET, ETC.)	FATALITIES	INJURIES
LAST ACCIDENT			
NEXT PREVIOUS			
NEXT PREVIOUS			

TRAFFIC CONVICTIONS AND FORFEITURES FOR THE PAST 5 YEARS (OTHER THAN PARKING VIOLATIONS) IF NONE, WRITE NONE

LOCATION	DATE	CHARGE	PENALTY

(ATTACH SHEET IF MORE SPACE IS NEEDED)

EDUCATION

CIRCLE HIGHEST GRADE COMPLETED: 1 2 3 4 5 6 7 8 HIGH SCHOOL: 1 2 3 4 COLLEGE: 1 2 3 4
 LAST SCHOOL ATTENDED (NAME) GED (CITY)

EXPERIENCE AND QUALIFICATIONS - DRIVER

DRIVER LICENSES	STATE	LICENSE NO.	TYPE	EXPIRATION DATE
	<u>AL</u>	<u>449-2920</u>	<u>CLASS A</u>	<u>6-8-08</u>

A. Have you ever been denied a license, permit or privilege to operate a motor vehicle?

YES _____ NO ☒

B. Has any license, permit or privilege ever been suspended or revoked?

YES _____ NO ☒

IF THE ANSWER TO EITHER A OR B IS YES, GIVE DETAILS _____

DRIVING EXPERIENCE IF NONE, WRITE NONE

CLASS OF EQUIPMENT	TYPE OF EQUIPMENT (VAN, TANK, FLAT, ETC.)	FROM	DATES TO	APPROX. NO. OF MILES (TOTAL)
STRAIGHT TRUCK	<u><input checked="" type="checkbox"/></u>			
TRACTOR AND SEMI-TRAILER	<u><input checked="" type="checkbox"/></u>			
TRACTOR - TWO TRAILERS				
MOTORCOACH - SCHOOL BUS				
OTHER				

LIST STATES OPERATED IN FOR LAST FIVE YEARS _____

SHOW SPECIAL COURSES OR TRAINING THAT WILL HELP YOU AS A DRIVER: _____

WHICH SAFE DRIVING AWARDS DO YOU HOLD AND FROM WHOM? _____

PAGE 2 16F (Rev. 5/02) 201

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EMPLOYMENT HISTORY

All driver applicants to drive in interstate commerce must provide the following information on all employers during the preceding 3 years. List complete mailing address, street number, city, state and zip code.

Applicants to drive a commercial motor vehicle in intrastate or interstate commerce shall also provide an additional 7 years' information on those employers for whom the applicant operated such vehicle. (NOTE: List employers in reverse order starting with the most recent. Add another sheet as necessary.)

EMPLOYER		DATE	
NAME	WASTE MANAGEMENT	FROM MO. 2 YR. 01	TO MO. 12 YR. 02
ADDRESS	4210 1851 Rd. 183	POSITION HELD	Driver
CITY	Opelika	STATE	AL ZIP 36801
CONTACT PERSON	Lewis Webb	PHONE NUMBER	812.900.4444
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		REASON FOR LEAVING	
		Lack of work	

EMPLOYER		DATE	
NAME	LESTER MILLS	FROM MO. 9 YR. 01	TO MO. 12 YR. 02
ADDRESS	244 Ave	POSITION HELD	Supervisor
CITY	Opelika	STATE	AL ZIP 36801
CONTACT PERSON	Sold out	PHONE NUMBER	812.25
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO		REASON FOR LEAVING	

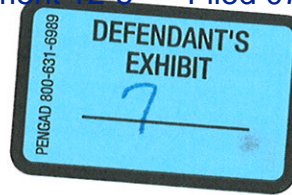
EMPLOYER		DATE	
NAME	HEWLETT PACKARD	FROM MO. 2 YR. 80	TO MO. 12 YR. 80
ADDRESS	Lafayette Blvd	POSITION HELD	Lab
CITY	Opelika	STATE	AL ZIP 36801
CONTACT PERSON		PHONE NUMBER	812.50
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO		REASON FOR LEAVING	

EMPLOYER		DATE	
NAME		FROM MO. YR.	TO MO. YR.
ADDRESS		POSITION HELD	
CITY	STATE ZIP	SALARY/WAGE	
CONTACT PERSON	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME		FROM MO. YR.	TO MO. YR.
ADDRESS		POSITION HELD	
CITY	STATE ZIP	SALARY/WAGE	
CONTACT PERSON	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME		FROM MO. YR.	TO MO. YR.
ADDRESS		POSITION HELD	
CITY	STATE ZIP	SALARY/WAGE	
CONTACT PERSON	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

*Includes vehicles having a GVWR of 26,001 lbs. or more, vehicles designed to transport 15 or more passengers, or any size vehicle used to transport hazardous materials in a quantity requiring placarding.

**ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK**

This will acknowledge that I have received my copy of Advanced Disposal Services Employee Handbook. I have read it and been given the opportunity to ask questions that I may have concerning any of the Company's policies and procedures.

I understand that this Handbook represents only current policies, regulations, and benefits, and that it does not create a contract of employment. The Company retains the right to change these policies, procedures and benefits, as it deems advisable.

I understand that I am an "at will" employee. I have the right to terminate my employment at any time, with or without cause, and that the Company has a similar right. I further understand that my status as an "at-will" employee may not be changed except in writing signed by the President of the Company. Nothing in this Handbook is intended to void my "at-will" status.

I understand that I am employed subject to a 90-calendar-day introductory period. I understand that I may be required to reimburse the Company for the cost of any uniforms I received if I voluntarily resign during the introductory period.

I understand that under circumstances as outlined in the Drug and Alcohol policy, I will be subject to physical examination, including a hair, blood and/or urine analysis by qualified personnel.

PRINTED FULL NAME:

Robert Cannon

SIGNATURE:

Robert Cannon

DATE:

1-22-07

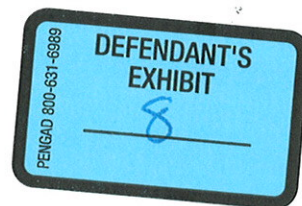
NOTE: This form should be signed, detached and returned to your supervisor or human resources administrator within three (3) days after receiving your Employee Handbook.

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Customer Relations

The Company expects all employees who interact in any manner with customers to be responsive to their requests and treat them with respect. Do not hesitate to ask your supervisor for assistance if a customer becomes abusive or irate, if the customer specifically asks to speak with a supervisor or manager or if you feel more confident having your supervisor or a manager assist the customer.



Dress and Appearance

The image of the Company is influenced by the appearance of its employees. We are all expected to practice good hygiene and dress appropriately for our job duties. The dress requirements for your facility or department may be posted or communicated to you by your supervisor. Generally, clothing that is too revealing, tight fitting or provocative is inappropriate during business hours.

Some Company facilities require the use of uniforms while employees are engaged in their job duties. If uniforms are required, you must obtain your supervisor's approval before wearing any other type of clothing. Your supervisor will also advise you about the procedure for obtaining and cleaning uniforms.

In all cases regarding what is considered acceptable attire, the final decision rests with the Company. If your attire does not meet standards considered acceptable, you may be requested to go home to change, with time involved unpaid.

Drug Free Workplace

In a commitment to safeguard the health of our employees and to provide a safe working environment for everyone, the Company has a drug-free workplace policy. It is the intent of the Company to provide a safe work environment for all employees free of the effects of substance abuse or abusers. Similarly, it is your responsibility to maintain personal health so you are physically and mentally capable of performing in the workplace. The abuse of drugs or alcohol is an unsafe and counter-productive practice that will not be tolerated. *If you believe you have a substance abuse problem, you are urged to seek assistance before your actions violate Company policy.*

Our drug-free workplace policy includes the following provisions:

- The Company prohibits the illegal use, possession, sale, manufacture, or distribution, of drugs, alcohol, or other controlled substances on Company property and in Company vehicles or equipment. It is against Company policy for you to report to work or to perform job duties, including the operation of a motor vehicle, under the influence of drugs or alcohol.

- All applicants considered final candidates for a position may be tested for the presence of drugs as part of the application process. Any applicant refusing to submit to a pre-employment drug test will be ineligible for hire. If an applicant's test is confirmed positive, the applicant will not be considered for employment at that time and will be informed that he or she has failed to meet employment standards.
- *You are subject to random drug testing in accordance with Company policies and governmental regulations.*
- *You may be tested when there is a reasonable suspicion that you are using or have used drugs/alcohol.*
- If you suffer an injury on the job that requires referral for medical treatment you may be tested.
- If you refuse to submit to a drug/alcohol test, you will be terminated from employment or otherwise disciplined.
- Prescription drugs prescribed by your physician may be taken during work hours. You should notify your supervisor if the use of properly prescribed prescription drugs might adversely affect your work performance. You may be assigned other duties if the use of prescribed medication may interfere with your regular job duties. Abuse of prescription drugs will be considered a violation of this policy.
- In the case of a violation of the Company policy, including a positive drug or alcohol test result, you will be subject to discipline up to and including discharge.

Honesty

Honesty and integrity are personal characteristics that each of us should strive for at all times. Unfortunately, there are times when, for whatever reason, the line that separates honesty and integrity is violated. If that line is violated in any of the following areas, the employee may be subject to disciplinary action up to and including discharge:

- Falsifications of Company paperwork, including but not limited to service agreements, landfill and recycling tickets, incentive pay sheets, vehicle condition reports, repair orders, time cards, expense reports, accident and safety reports, purchase orders, insurance forms, commission calculations, adjustment forms, employment applications and any other type of form or paperwork that you are required to complete from time-to-time.
- Theft of Company equipment, including but not limited to, tools owned by the Company or other employees, office equipment, office supplies, sales marketing and promotional items and any other Company or employee owned property.

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51742560

10101 Remar Blvd
Lafayette, LA 70503
(800) 728-4064

0831

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.
ADVANCED DISPOSAL SVCS. SUNFLOWER
DEF. TOM DAVIS
9000 GATE PARKWAY NORTH
JACKSONVILLE FL 32240
PH 904-443-7000 FAX 904-443-7000

B. MRO Name, Address, Phone and Fax No.
HORACIO MARAFIOTA - EMPLOYEE SCREE
P.O. BOX 82113
221 SOUTH PARK BLVD. B
LAFAYETTE LA 70503
Ph 337-531-1816
Fx 337-149-1134

C. Donor SSN or Employee I.D. No.

D. Reason for Test: ☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident
☐ Return to Duty ☐ Follow-up ☐ Other (specify)

E. Drug Tests to be Performed: ☒ THC, COB, PCP, OP, AMP ☐ THC & COB Only ☐ Other (specify)

F. Collection Site Address:

TALLASSEE FAMILY CARE
115 HERREN HILL RD
TALLASSEE AL 36979

Collector Phone No. 334-283-4777

Collector Fax No. 334-283-4762

DEFENDANT'S EXHIBIT

9

PENAD 800-631-6989

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark: ☒ Split ☐ Single ☐ None/Provided (Enter Remark) ☐ Observed (Enter Remark)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s) and/or initials seal(s). Donor completes STEP 5 or Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: NONE

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

Collector's Name (PRINT First, MI, Last)

JAMES S. BELLER

Date of Collection

01-22-07

Time of Collection

02:49

AM ☒ PM

Signature of Collector

SPECIMEN BOTTLE(S) RELEASED TO: DHC COMMTEL

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB

☒ Primary Specimen Bottle Seal Intact ☐ SPECIMEN BOTTLE(S) RELEASED TO:
☐ Yes ☐ No, Enter Remark Below

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector, that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

Robert Cannon
Signature of Donor

Robert Cannon
(PRINT) Donor's Name (First, MI, Last)

01-22-07
Date (Mo./Day/Yr.)

Daytime Phone No.

Evening Phone No.

Date of Birth

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☒ NEGATIVE ☐ POSITIVE ☐ TEST CANCELED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS

[Signature]
Signature of Medical Review Officer
(PRINT) Medical Review Officer's Name (First, MI, Last)
Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

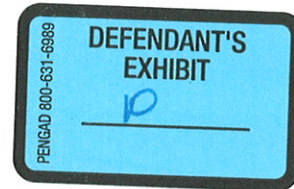
In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON

[Signature]
Signature of Medical Review Officer
(PRINT) Medical Review Officer's Name (First, MI, Last)
Date (Mo./Day/Yr.)

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(26)

*Rund*

3835 Jeffco Boulevard
Arnold, Missouri 63010
636/532-4099

ATTENTION:

Tom Davis
Advanced Disposal Services, Inc. - DAI
9788 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Cannon

Owner ID:

SENT:

Results of DOT Controlled Substance Test

Record Status: Positive
Test Type: Pre-Employment
Collection Date/Time: 01/22/2007 2:48 PM
Batch ID: 20070202
Specimen ID: 51742560
Date COC Received: 01/22/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
608 E State Parkway
Schaumburg, IL 60173
Collection Site: TALLASSEE FAMILY CARE
116 HERON HILL ROAD
TALLASSEE, AL 36878
Specimen Collector: JANE S BELLEV

Substance Tested	Result
Amphetamine	Negative
Marijuana	Negative
Opiates	Negative

Substance Tested	Result
Cocaine	POSITIVE
Phencyclidine	Negative

(MRO UNABLE TO CONTACT)
TEST IS POSITIVE:
COCAINE

Horacio Martinez M.D. MRO

2/2/2007

Verification Date

Feb 12, 2007

Results for Robert Cannon, Owner ID: (

Printed on 2/2/2007 at 5:58:42 PM

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03/20/2007 14:24 3347456783
MAR-13-07 07:41AM FROM-ST LOUIS MRO INC

OFELIKA HOUSING AUTH
0365322607

PAGE 05/05
T-812 P.001/05, F-323

ATTN:

ms. Pullum

[Handwritten signature]

St. Louis

MRO, Inc.

Aliment HT

THIS IS THE COMPANY DRUG SCREEN

3896 Jeffco Boulevard
Arnold, Missouri 63010
636/582.4099

ATTENTION:

Tom Davis
Advanced Disposal Services, Inc. - Dot
9790 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Cannon
Other ID:
SSN:



Results of DOT Controlled Substance Test

Record Status: Negative
Test Type: Pre-Employment
Collection Date/Time: 02/12/2007 08:42 AM
Batch ID: 20070214
Specimen ID: 6662214
Date COC Received: 02/12/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
600 E State Parkway
Schaumburg, IL 60173
Collection Site: TALLASSEE FAMILY CARE
118 HERON HILL ROAD
TALLASSEE, AL 36078
Specimen Collector: JANE BELLEW

Substance Tested	Result
Amphetamines	Negative
Marijuana	Negative
Opiates	Negative

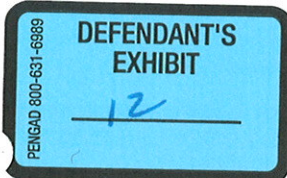
Substance Tested	Result
Cocaine	Negative
Phencyclidine	Negative

[Handwritten signature]
Horacio Maraffotti M.D., MRO

2/14/2007

Verification Date

CONFIDENTIAL
ADS / CANNON
0069



KENT V. KLINNER, JR., M.D.
1711 PEPPERELL PARKWAY
OPELIKA, AL 36801
(334)745-7098

EMPLOYEE NAME Robert Cannon COLLECTION DATE 2-12-07

ID/SSN _____

TIME OF COLLECTION 10:18 AM NAME OF COLLECTOR TJ Curtis

Robert Cannon

DONOR'S SIGNATURE

TJ Curtis

COLLECTOR'S SIGNATURE

LOCATION OF TEST: 1711 PEPPERELL PKWY, OPELIKA, AL 36801

TIME OF TEST 10:20 AM/PM

TEST OPERATOR TJ Curtis

TESTING RESULTS

COCAINE neg
AMPHETAMINES neg
THC neg
OPITAES neg
PCP neg

REMARKS _____

CUSTODY AND CONTROL

SPECIMEN RECEIVED BY TJ Curtis DATE 2-12-07
SPECIMEN DESTROYED BY TJ Curtis DATE 2-12-07

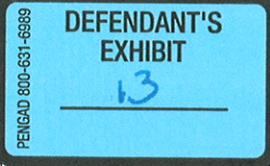
Robert Cannon

DONOR'S SIGNATURE

TJ Curtis

COLLECTOR'S SIGNATURE

FINAL CLEARANCE FOR TERMINATING EMPLOYEE



Employee Name Robert Cannon SS# _____ Position Driver
 Location Opelika Termination Date 3/9/07 Date of Hire 1 Feb 07
 Reason: Violating Drug and alcohol Policy
 Eligible For Rehire: Yes _____ No ☒

PLEASE DETERMINE IF ANY OF THE FOLLOWING ARE OUTSTANDING: Please Initial

Travel Advance	_____	Accounting	_____	Date	_____
Petty Cash Advance	_____	Accounting	_____	Date	_____
*Avail. Vacation Accrual	_____				
*Avail. Sick Accrual	_____				
*Avail. PTO Accrual	_____				

* Number of hours

*PLEASE COLLECT/CANCEL THE FOLLOWING: PLEASE INITIAL

Telephone Credit Card	Supervisor	_____	Date	_____
Credit Card/Fuel Card/Toll Card	Supervisor	_____	Date	_____
DP Access Codes	Supervisor	_____	Date	_____
Bldg. Keys/Access Codes/Loan Equipment	Supervisor	_____	Date	_____
Miscellaneous (tools, manuals, etc.)	Supervisor	_____	Date	_____
ID Card/Badge	Supervisor	_____	Date	_____
Policy Manuals and/or Handbook	Supervisor	_____	Date	_____
Locker Key	Supervisor	_____	Date	_____
Uniforms	Supervisor	_____	Date	_____
Office Equipment (i.e., cell phone, fax machine, pager, computer)	Supervisor	<u>DCJ</u>	Date	<u>3/9/07</u>
Payroll Deductions for Insurance \$			Date	_____
Cobra letter sent		<u>17M</u>	Date	_____

Select One: Mail check to: _____

Hold For Pick up: _____

Employee Signature: Robert Cannon

Date 3/9/07

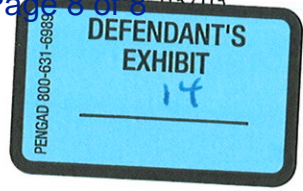
Supervisor Signature: Danny C. [Signature]

Date 3/9/07

CHECK RELEASED:

Payroll Coordinator: [Signature]

Date _____



EMPLOYEE DISCIPLINARY REPORT

EMPLOYEE NAME Robert Cannon DATE OF OFFENSE _____
POSITION Driver COMPANY LOCATION Opelika
COMPANY NAME Sunflower DISTRICT A1

The following disciplinary action was taken today and is to be made part of the official record of the above mentioned employee.

The Company views progressive discipline and the issuance of written disciplinary action as a constructive method of communicating to employees the importance of meeting the performance standards established by the Company. The Company believes that adherence to Company policies and procedures and exemplification of a positive work ethic by all employees is essential in creating a work environment that is satisfying, safe and productive.

The Company believes that progressive discipline is a mutually beneficial process for both employee and employer. It is the Company's intention to utilize this process, whenever practical, to identify deficiencies in job performance and provide direction to employees for taking corrective measures.

However, continued violation of Company policies could result in additional disciplinary action, leading up to and/or including termination. The Company recognizes there are certain offenses that, if committed by an employee, are serious enough to justify immediate discharge, thereby, superseding the progressive discipline process.

☐ Verbal Documentation ☐ 1st Written Warning ☐ 2nd Written Warning in lieu of suspension ☒ Termination
☐ 2nd Written Warning with suspension without pay _____ day(s) Attach Exit Interview

Suspension - Designate Specific Dates	/ / thru / /	Return to work on / /
<input type="checkbox"/> 1. Unexcused absence	<input checked="" type="checkbox"/> 11. Violation of company drug and alcohol policy	<input type="checkbox"/> 17. Preventable accident
<input type="checkbox"/> 2. Excessive tardiness/absence	<input type="checkbox"/> 12. Failure to maintain required driving credentials	<input type="checkbox"/> 18. Failure to wear personal safety equipment
<input type="checkbox"/> 3. Abuse of lunch/break privileges	<input type="checkbox"/> 13. Substandard work/customer complaints	<input type="checkbox"/> 19. Destruction of company property
<input type="checkbox"/> 4. Improper conduct	<input type="checkbox"/> 14. Housekeeping (work area/assigned vehicle)	<input type="checkbox"/> 20. Reckless driving
<input type="checkbox"/> 5. Dishonesty	<input type="checkbox"/> 15. Fighting	<input type="checkbox"/> 21. Equipment abuse
<input type="checkbox"/> 6. Insubordination	<input type="checkbox"/> 16. Carelessness	<input type="checkbox"/> 22. Violation of safety rules
<input type="checkbox"/> 7. Failure to follow instructions		<input type="checkbox"/> 23. Stealing/Unauthorized accounts
<input type="checkbox"/> 8. Failure to report an accident		<input type="checkbox"/> 24. Salvaging
<input type="checkbox"/> 9. Failure to report an injury		<input type="checkbox"/> 25. Falsification of documents
<input type="checkbox"/> 10. Leaving without permission		<input type="checkbox"/> 26. Other _____

Explain Violation: _____

Corrective Measures To Be Taken By Employee: _____

I have read this report and acknowledge receipt.
☒ Employee Signature _____
Employee Comments (continue on back of this form if necessary): _____
Employee refused to sign - witness signature _____

Issued By: Danny C. Smith Title: Resident Mgr. Date Issued: 3/9/07
Reviewed By: _____ Name: _____ Title: _____ Date Reviewed: _____

ALCOHOL AND/OR DRUG TEST NOTIFICATION

Part 382 - Controlled Substances and Alcohol Use Testing applies to drivers of this company.

§382.113 Requirement for notice.

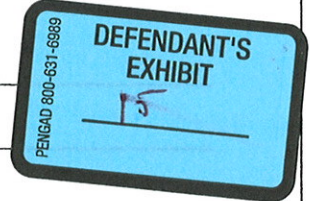
Before performing an alcohol or controlled substances test under this part, each employer shall notify a driver that the alcohol or controlled substances test is required by this part. No employer shall falsely represent that a test is administered under this part.

Company Name: SUNFLOWER WASTE

Driver/Applicant Name: ROBERT CANNON
(Print) (First, M.I., Last)

You are hereby notified the following test will be administered in compliance with the Federal Motor Carrier Safety Regulations.

1. The test is scheduled: Date: 1/22/07
Location: TALLASSEE
Time: 2:00 PM



2. Check type of test: ☐ Alcohol ☒ Controlled Substance

3. Check reason for test: ☒ Pre-employment ☐ Random ☐ Reasonable suspicion
☐ Post-accident ☐ Return to duty ☐ Follow-up

4. Appointment instructions/comments:

I understand as a condition of my employment with this company, the above identified test is required.

Robert Cannon
Driver/Applicant's Signature

1-22-07
Date

Witnessed by: Russell Cannon
Company Representative

1/22/06
Date

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

☐ FEPA
☒ EEOC

420-2007-03001

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Mr. Robert Cannon

HOME TELEPHONE (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

DATE OF BIRTH

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Sunflower Waste, LLC

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

334.252.0458

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

115 Herrin Hill Road, Tallahassee, AL 36078

Macon

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

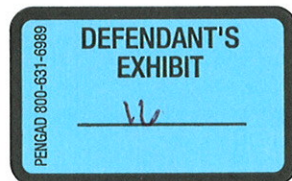
☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ AGE
☐ RETALIATION ☐ NATIONAL ORIGIN ☐ DISABILITY ☐ OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On March 9, 2007, I was unjustly terminated by Sunflower Waste, LLC. I believe my termination was based upon race, because the reason I was given, failure of a drug screen, was false. Sunflower Waste, LLC falsified and fabricated the reason for my termination, as I have documented proof that my drug screen, for which Sunflower Waste, LLC, claims I was terminated, was, in fact, negative. I was qualified to perform the work I was doing, I was terminated unjustly, and, upon information and belief, the person who took over my duties was not a minority. Therefore, I believe my termination was based on my race.



RECEIVED EEOC

MAY 18 2007

BIRMINGHAM, ALA

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

5-14-07
Date

Robert Cannon
Charging Party (Signature)

14, MAY 2007 [Signature]

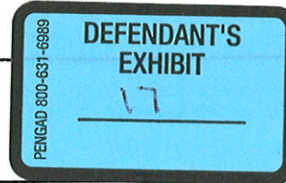
DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Robert Cannon

From: Birmingham District Office
Ridge Park Place
1130 22nd Street, South
Birmingham, AL 35205☐On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative



Telephone No.

420-2007-03001

Ollie M. Croom,
Investigator

(205) 212-2140

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

☐

Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.

☐

While reasonable efforts were made to locate you, we were not able to do so.

☐

You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

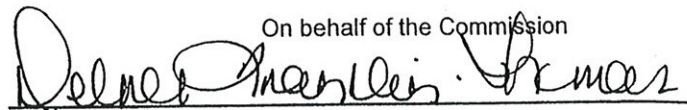
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

Enclosures(s)

On behalf of the Commission


Delner Franklin-Thomas,
District Director

8/27/7
 (Date Mailed)

cc: Sunflower West LLC
 115 Herrin Hill Road
 Tallassee, AL 36078

James B. Douglas, Jr., Attorney
 McNeal & Douglas
 Post Office Box 1423
 Auburn, AL 36630

J. Tobias Dykes, Attorney
 Constangy, Brooks, & Smith LLC
 One Federal Place
 1819 Fifth Avenue, North Suite 900
 Birmingham, AL 35203

CONFIDENTIAL
 ADS / CANNON
 0007

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

RECEIVED

2007 SEP 18 P 3:11

ROBERT CANNON,

PLAINTIFF,

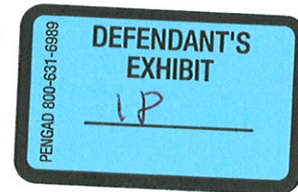
v.

ADVANCED DISPOSAL SERVICES
ALABAMA LLC d/b/a SUNFLOWER
WASTE, LLC

DEFENDANTS.

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CIVIL ACTION NO 3:07CV846-WKW



COMPLAINT

I. JURISDICTION

1. This is an action for legal and equitable relief to redress discrimination in employment on the basis of race. This action arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.; the Civil Rights Act of 1991, and 42 U.S.C. § 1981.

2. The Court has jurisdiction of the subject of this action pursuant to 28 U.S.C. §§ 1331, 1332(a)(1), 1343(a)(4), 2201 & 2202, and 42 U.S.C. § 2000e-5(f)(3).

II. PARTIES

3. Plaintiff, Robert Cannon, is an African-American citizen of the United States over the age of nineteen years. Plaintiff resides in Opelika, Alabama, which is located in Lee County. At all times relevant to this action, Plaintiff was an employee within the meaning of Section 701(f) of Title VII, 42 U.S.C. Sec. 2000e(f).

4. Upon information and belief, Defendant Alabama Disposal Services Alabama LLC d/b/a Sunflower Waste LLC operates a business in this judicial district and division and is incorporated in the state of Delaware. Defendant is an employer within the meaning of Section 701(b) of Title VII, 42 U.S.C. Sec. 2000e(b).

III. ALLEGATIONS OF FACT

5. From January 23rd 2007 until March 9th 2007, the Plaintiff was an employee of Defendant; Plaintiff worked as a truck driver; the Defendant is engaged in the business of solid waste collection and disposal.

6. Plaintiff's terms and conditions of employment were tainted with racial discrimination. Plaintiff was subject to disparate treatment by management, and management's policies had a disparate impact on plaintiff due to his race. Ultimately, Plaintiff's employment was terminated due to his race, and Defendant falsified a non-racial reason for the termination.

7. The Plaintiff, as a truck driver, was required to submit to drug-testing by the Defendant. The Defendant submitted a specimen, collected on January 22, 2007, to St. Louis MRO, Inc., the company the Defendant uses to process the drug tests, which did not show the Plaintiff's name and was not signed by the testing company, but did show the Plaintiff's social security number. Said test showed a positive result for cocaine.

8. The Plaintiff was asked to submit another sample, by the Defendant, and the Plaintiff did so on February 12, 2007. The Plaintiff was suspicious that he was being targeted by the Defendant, thus the Plaintiff also submitted a sample to his personal physician as well.

9. Results from both St. Louis MRO, Inc. and Dr. Kent Kliner, Plaintiff's personal physician, showed negative results for the presence of drugs, regarding the February 12th 2007 sample. At no time while employed by the Defendant, nor in the months prior to Plaintiff applying for employment with Defendant, did the Plaintiff use any drugs.

10. Notwithstanding this, Defendant terminated the Plaintiff by falsely claiming that he had failed the drug screen.

11. Furthermore, Defendant slandered the Plaintiff, by falsely contending, to prospective employers, that Plaintiff had failed a drug screen. This defamation made the Plaintiff unemployable in his chosen field of employment.

12. The Plaintiff was, at all times, qualified for his position with the Defendant, was terminated without cause, and his position was, upon information and belief, filled by a non-minority employee.

13. Plaintiff was treated differently and ultimately terminated by Defendant due to his race in violation of Federal Civil Rights Laws.

14. Defendant's actions as alleged herein were committed with malice or with reckless indifference to the federally protected rights of Plaintiff.

15. As the proximate result of Defendant's unlawful conduct, Plaintiff has suffered, is continuing to suffer, and will in the future suffer, great and irreparable loss and injury, including but not limited to economic losses, humiliation, embarrassment, emotional distress and deprivation of his civil rights.

IV. CLAIM ONE – 703 OF TITLE VII AND 42 U.S.C. 1981

16. Plaintiff adopts and re-alleges Paragraphs 1-15 above, as if set out in full herein.

17. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission, attached hereto as exhibit "A." The Plaintiff was given a dismissal and notice of rights on August 27th 2007, attached hereto as exhibit "B."

18. The conduct of Defendant violated Plaintiff's rights guaranteed by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and 42 U.S.C. § 1981a, in particular, the right not to be discriminated against on the basis of race in discharge or with respect to terms, conditions and privileges of employment, 42 U.S.C. Sec. 2000e-2 (a) (1).

V. CLAIM TWO-§ 1981

19. Plaintiff re-alleges paragraphs 1-18 as if set forth here in full.

20. The conduct of Defendant violated Plaintiff's rights guaranteed by the Civil Rights Act of 1866, as amended, 42 U.S.C § 1981, and the Civil Rights Restoration Act of 1991, which prohibits discrimination in employment with regard to race and mandates the enforcement of contracts without regard to race.

VI. CLAIM THREE-SLANDER

21. Plaintiff re-alleges paragraphs 1-20 as if set forth here in full.

22. In April 2007, the Defendant slandered the Plaintiff by publishing a false and defamatory statement of and concerning the Plaintiff to wit: Defendant falsely indicated to a prospective employer of the Plaintiff that the Plaintiff had previously tested positive for drug use.

23. As a result of not securing the employment sought with Ann Dora's, the prospective employer, Plaintiff was forced to accept employment at a lower rate of pay and suffered economic, as well as, emotional damages.

- 24. Plaintiff claims mental anguish and emotional distress as a result of the slander by the Defendant.
- 25. Plaintiff claims punitive damages of the Defendant because Defendant published said statement with malice and with knowledge of its falsity or with gross and reckless disregard of its falsity.

VII. CLAIM FOUR-FRAUD

- 26. Plaintiff re-alleges paragraphs 1-25 as if set forth here in full.
- 27. After being unjustly terminated by Defendant, Plaintiff applied for other employment with prospective employers.
- 28. One prospective employer, Ann Dora's, received a false representation from Defendant that Plaintiff had failed a drug test.
- 29. This representation was false and Defendant knew it was false, or was false and Defendant made the misrepresentation with reckless disregard of its falsity, or was false and made by Defendant by mistake, but with the intention that prospective employers would rely on it.
- 30. Plaintiff was among the class of persons Defendant intended to rely on the misrepresentation and thus, under Alabama Law, has demonstrated detrimental reliance, even though the statement was not made directly to Plaintiff.
- 31. As a proximate result of Defendant's fraud, Plaintiff has suffered damages, including lost wages, other economic damages, and emotional damages, including mental anguish.
- 32. Plaintiff claims punitive damages of the Defendant due to the intentional nature of said fraud.

VIII. CLAIM FIVE-FRAUD

33. Plaintiff re-alleges paragraphs 1-32 as if set forth here in full.
34. Defendant represented to Plaintiff that it would take a specimen from Plaintiff for drug testing that would be properly submitted, tested, and reported.
35. The Defendant's obvious intention was to falsify the results as a subterfuge to terminate the Plaintiff's employment.
36. The representations by Defendant, regarding the drug-testing, were false and Defendant knew they were false, were false, and were made by Defendant with reckless disregard of their falsity, or were false, and made by mistake, but with the intention that Plaintiff rely on them.
37. Plaintiff detrimentally relied on the misrepresentations by submitting the drug samples and by accepting the employment position.
38. As a proximate result of Defendant's fraud, Plaintiff suffered damages as outlined in this complaint, supra.

VII. PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court will grant him the following relief:

A. Issue a declaratory judgment declaring that the wrongs complained of herein violate the rights of Plaintiff guaranteed by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and 42 U.S.C. § 1981.

B. Enter a permanent injunction or other injunctive relief-enjoining Defendant from maintaining or continuing any customs, policies, patterns, practices or actions which operate to discriminate on the basis of race.


C. Awarding Plaintiff compensatory and punitive damages, including pre-judgment interest.

D. Retain jurisdiction of this action for a sufficient time to ensure full compliance with the remedial decree requested herein.

E. Award Plaintiff his costs incurred in this case, together with reasonable attorneys fees and pre-judgment interest, pursuant to applicable federal law.

F. Grant such additional and further relief as the Court may deem just and equitable under the circumstances.

Respectfully submitted this the 18th day of September, 2007.


James B. Douglas, Jr.
Attorney for Plaintiff
McNeal & Douglas, Attorneys at
Law, L.L.C.
Ala. Bar. #8935-u83j
P.O. Box 1423
Auburn, Alabama, 36831
334-821-6401

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by struck jury.

Respectfully submitted this 18th day of September, 2007.


James B. Douglas, Jr.
Attorney for Plaintiff

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974. See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
State or local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.) Mr. Robert Cannon		HOME TELEPHONE (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	DATE OF BIRTH
NAME OF THE EMPLOYER, EMPLOYER, AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below)			
NAME Sunflower Waste, LLC		NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (Include Area Code) 334.252.0458
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY Macon
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate boxes)			DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) LATEST
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)			<input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). On March 9, 2007, I was unjustly terminated by Sunflower Waste, LLC. I believe my termination was based upon race, because the reason I was given, failure of a drug screen, was false. Sunflower Waste, LLC falsified and fabricated the reason for my termination, as I have documented proof that my drug screen, for which Sunflower Waste, LLC, claims I was terminated, was in fact, negative. I was qualified to perform the work I was doing, I was terminated unjustly, and, upon information and belief, the person who took over my duties was not a minority. Therefore, I believe my termination was based on my race.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date: 5-14-07 Charging Party (Signature): Robert Cannon		SIGNATURE OF COMPLAINANT: Robert Cannon SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year): 14, MAY 2007 [Signature]	

EXHIBIT "B"

EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Robert Cannon

From: Birmingham District Office
Ridge Park Place
1130 22nd Street, South
Birmingham, AL 35205On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420-2007-03001

Ollie M. Croom,
Investigator

(205) 212-2140

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

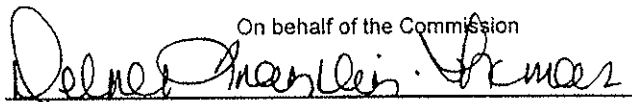
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Delner Franklin-Thomas,
District Director8/27/7
(Date Mailed)

Enclosures(s)

cc: Sunflower West LLC
115 Herrin Hill Road
Tallassee, AL 36078James B. Douglas, Jr., Attorney
McNeal & Douglas
Post Office Box 1423
Auburn, AL 36630J. Tobias Dykes, Attorney
Constangy, Brooks, & Smith LLC
One Federal Place
1819 Fifth Avenue, North Suite 900
Birmingham, AL 35203

Enclosure with EEOC
Form 161 (3/98)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02** -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

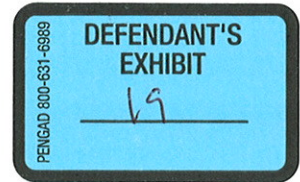
If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do **not** relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

ANN DORA'S CUSTOM WROUGHT IRON



504 B Fairview st.
Montgomery, AL 36104
Telephone: (334) 224-0591 Fax: (334) 242-2157

FACSIMILE COVER SHEET

From
To:
With:

Cherry Sherry

Phone #
Fax #

Comments:

*Please fill out information
and Return*

If there is no inconvenience please respond back as soon as possible.
Thank You for Your Cooperation and Have a Great Day.

To
From: *[Signature]*

Total number of pages faxed: 2 (including cover sheet)

Date 4/2/07

PREVIOUS EMPLOYER INFORMATION REQUEST

FROM: ANN DORA'S
504 B FAIRVIEW ST
MONTGOMERY, AL 36104
334-224-0591 FAX 334-242-2157
CONTACT: ANTHONY FLOYD

PREVIOUS EMPLOYER
COMPANY: SUN FLOWER WASTE, LLC
STREET: 115 HERREN HILL RD.
CITY: TAUNUSSEE AL, 36078
PHONE: 334 252-0458 FAX 252-2670

THE PERSON NAMED BELOW HAS MADE APPLICATION FOR EMPLOYMENT AT ANN DORA'S AS A DRIVER. YOUR NAME WAS GIVEN AS A PAST/PRESENT EMPLOYER. YOUR PROMPT ATTENTION AND RESPONSE WILL BE GREATLY APPRECIATED.

APPLICANTS NAME Robert Cannon DATE 3/28/07
SOCIAL SECURITY _____ IVERS LICENSE# _____ STATE AL

ABOVE FILLED OUT BY APPLICANT

DATE OF EMPLOYMENT 1-23-07 TO 3-9-07 POSITION HELD Res DRIVER
INDICATE EQUIPMENT OPERATED: ☒ STRAIGHT TRUCK ☐ TRACTOR TRAILER

TYPE OF TRAILER _____
TYPE OF DRIVING? ☒ LOCAL ☐ OVER THE ROAD
IN COMPLIANCE WITH 49 C.F.R. 382, WAS THIS APPLICANT SUBJECT TO FEDERAL ALCOHOL

& DRUG TESTING? ☒ YES ☐ NO
DID HE/SHE TEST POSITIVE ON DRUG TEST? ☒ YES ☐ NO ALCOHOL .04>? ☒ YES ☐ NO

IF YES, GIVE DATE AND EXPLAIN 3-9-07 / results came back in reference to pre-employment testing - had to take 2 tests - 1st test had wrong SSN# on it
HAS THIS PERSON, IN THE LAST 2 YEARS, HAD ANY DRUG OR ALCOHOL VIOLATIONS? ☒ YES ☐ NO So we retested
IF YES, EXPLAIN.

See Above
REASON FOR LEAVING Terminated!

WOULD YOU REHIRE? ☐ YES ☒ NO IF NO, PLEASE EXPLAIN violation of drug & Alcohol policy

WAS THIS PERSON INVOLVED IN ANY ACCIDENTS? ☐ YES ☒ NO IF SO, WHEN? _____

WAS ACCIDENT EMPLOYEES FAULT? ☐ YES ☐ NO IF YES, EXPLAIN N/A

NAME OF PERSON SUPPLYING INFORMATION Sherry Beasley TITLE Office Manager
SIGNATURE Sherry Beasley DATE 4-2-07

APPLICANT WAIVER
FORMER EMPLOYER: _____ DATE _____

I HEREBY AUTHORIZE YOU TO RELEASE THE ABOVE INFORMATION ALONG WITH ANY MEDICAL INFORMATION THAT MIGHT AFFECT MY ABILITY TO PERFORM IN THE POSITION I HAVE APPLIED FOR.

APPLICANT'S SIGNATURE Robert Cannon WITNESS Bill Lucas

Please Fax RESPONSE: 1-334-242-2157

CONFIDENTIAL
ADS / CANNON
0058

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ROBERT CANNON,

PLAINTIFF,

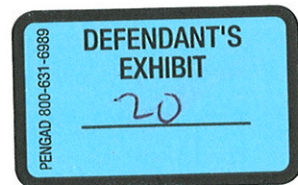
v.

ADVANCED DISPOSAL SERVICES
ALABAMA LLC d/b/a SUNFLOWER
WASTE, LLC

DEFENDANT.

CIVIL ACTION NO.

3:07cv846-wkw



PLAINTIFF'S INTIAL DISCLOSURES

COMES NOW Plaintiff, and submits his Initial Disclosures, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedures as follows:

A. Individuals likely to have discoverable information which may support the Plaintiff's claims and allegations are as follows:

1. Robert Cannon. Mr. Cannon will testify regarding all the allegations in his Complaint, including the fact that the Defendant falsified a positive drug screen as an excuse to terminate him due to his race.
2. Danny White, Mr. Cannon's supervisor. Mr. White will have discoverable information regarding his treatment of Mr. Cannon.
3. Coke Conway. Mr. Conway will have discoverable information regarding his employment with the Defendant, which relates to the Plaintiff's claims.

4. A corporate representative from St. Louis MRO, Inc. Said representative should have discoverable information regarding the testing performed on behalf of the Defendant.

5. Tom Davis. Mr. Davis will have discoverable information regarding the Defendant's drug testing procedures, as well as the Defendant's treatment of the Plaintiff.

6. Jo Ann Holder. Ms. Holder will have discoverable information regarding her investigation of this incident on behalf of the State of Alabama, Department of Industrial Relations.

7. Dr. Kent Klinner. Dr. Klinner will have discoverable information which proves that the Plaintiff did not have illegal drugs in his system at the time of testing.

8. Reuben Lowder. Mr. Lowder will have discoverable information regarding his treatment as an employee of the Defendant.

9. A representative from the Opelika Housing Authority. Said representative will have discoverable information regarding Plaintiff's damages.

B. Documents

Upon information and belief, all relevant documents which support Mr. Cannon's claims are in the possession, custody, and control of the Defendant. Plaintiff does not have any documents, other than those which may be used solely for impeachment, which are not in the possession of the Defendant.

C. Computation of Damages.

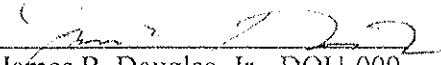
Plaintiff's damages would include back-pay from the time of his termination until the date of judgment. Plaintiff does not have documents regarding these damages, as said documents are in the sole custody and control of the Defendant. The Plaintiff also

suffered mental anguish and claims punitive damages of the Defendant, for which not documentation would exist.

D. Not Applicable.

Plaintiff reserves the right to supplement these disclosures, should other documents, or matters required to be disclosed, are discovered during the litigation.

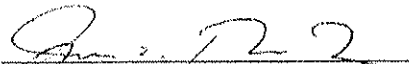
Respectfully submitted this the 2nd day of January, 2008.


James B. Douglas, Jr. -DOU-009
Attorney for Plaintiff
ALA BAR NO: 8935-U83J
P.O. Box 1423
Auburn, AL 36831-1423
(334) 821-1596

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing, by placing the same in the U.S. mail, postage prepaid and properly addressed, on this the 2nd day of January, 2008.

J. Tobias Dykes
Constangy, Brooks & Smith, LLC
One Federal Place
Suite 900
1819 Fifth Avenue North
Birmingham, AL 35203


James B. Douglas, Jr.

DEPOSITION OF SHERRY BEASLEY

April 10, 2008

Pages 1 through 59

PREPARED BY:

**Haislip, Ragan, Green, Starkie & Watson, P.C.
566 South Perry Street
Post Office Box 62
Montgomery, AL 36104
Phone: (334) 263-4455
Fax: (334) 263-9167
E-mail: haislipragan@charter.net**

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ROBERT CANNON,
Plaintiff,

Vs. CIVIL ACTION NO.
3:07-CV-846-WKW

ADVANCED DISPOSAL SERVICES
ALABAMA, LLC, d/b/a SUNFLOWER
WASTE, LLC,
Defendant.

DEPOSITION OF SHERRY BEASLEY, taken pursuant
to stipulation and agreement before Haley A.
Phillips, Certified Court Reporter, ACCR # 151, and
Commissioner for the State of Alabama at Large, in
the Law Offices of McNeal & Douglas, 1710 Catherine
Court, Auburn, Alabama, on Thursday, April 10,
2008, commencing at approximately 2:15 p.m.

Page 2

APPEARANCES

FOR THE PLAINTIFF:
James B. Douglas, Jr., Esq.
McNeal & Douglas
Suite B
1710 Catherine Court
Auburn, Alabama 36830

FOR THE DEFENDANT:
J. Tobias Dykes, Esq.
Constangy, Brooks & Smith
Attorneys at Law
1819 Fifth Avenue North
One Federal Place, Suite 900
Birmingham, Alabama 35203

ALSO PRESENT:
Mr. Glenn Guest

EXAMINATION INDEX
BY MR. DOUGLAS 4

Page 3

STIPULATION

It is hereby stipulated and agreed by and
between counsel representing the parties that the
deposition of SHERRY BEASLEY is taken pursuant to
the Federal Rules of Civil Procedure and that said
deposition may be taken before Haley A. Phillips,
Certified Court Reporter, ACCR # 151, and
Commissioner for the State of Alabama at Large,
without the formality of a commission, that
objections to questions other than objections as to
the form of the question need not be made at this
time but may be reserved for a ruling at such time
as the said deposition may be offered in evidence
or used for any other purpose by either party
provided for by the Statute.

It is further stipulated and agreed by and
between counsel representing the parties in this
case that the filing of said deposition is hereby
waived and may be introduced at the trial of this
case or used in any other manner by either party
hereto provided for by the Statute regardless of
the waiving of the filing of the same.

It is further stipulated and agreed by and

Page 4

between the parties hereto and the witness that the
signature of the witness to this deposition is
hereby not waived.

SHERRY BEASLEY

The witness, after having first been duly
sworn to speak the truth, the whole truth and
nothing but the truth testified as follows:

EXAMINATION

BY MR. DOUGLAS:

Q. Would you state your name, please, ma'am.

A. Sherry Beasley.

Q. Ms. Beasley, my name is Jim Douglas. I
represent Robert Cannon in this lawsuit.
Do you and I know each other?

A. No, sir.

Q. Have we met prior to today?

A. No, sir.

Q. Have you ever given a deposition before?

A. No, sir.

Q. I'm going to be asking you some questions.

And you understand that you're under oath?

A. Yes, sir.

Page 5

1 Q. You understand it's just like being in
2 court?
3 A. Right. Yes, sir.
4 Q. I'm going to do my best to ask questions
5 that make sense to you. There will be
6 times when I fail to do that. If you would
7 just let me know, I'll be happy to rephrase
8 my question, okay?
9 A. Okay.
10 Q. If I ask a question and you answer it, I'll
11 assume you understood my question. Fair
12 enough?
13 A. Fair enough.
14 Q. Where do you live, ma'am?
15 A.
16 Q. What's your address?
17 A.
18 Q. How long have you lived there?
19 A. Right at four years.
20 Q. Where did you live before that?
21 A.
22 Q. And how long did you live at that address?
23 A. About ten years.

Page 6

1 Q. Does anybody live in your home with you?
2 A. Yes.
3 Q. Who?
4 A. My husband and my four kids.
5 Q. Are any of your kids 19 or older?
6 A. I've got one that's 19.
7 Q. Excuse me. 18 or older.
8 A. Yes. I've got one that's 19.
9 Q. What is his or her name?
10 A.
11 Q. Where does he live?
12 A. He lives at home, but he goes to school in
13 Marion.
14 Q. Marion ...
15 A. Alabama. I'm sorry.
16 Q. What school?
17 A. Marion Military Institute.
18 Q. What is your husband's name?
19 A.
20 Q. What does he do?
21 A. He is a master plumber with Associated
22 Mechanical Contractors.
23 Q. Where does he work?

Page 7

1 A. Montgomery.
2 Q. Does he own the company or does he work for
3 them?
4 A. No. He works for them.
5 Q. How long has he been there?
6 A. Five years.
7 Q. What did he do before that?
8 A. He was a police officer with --
9 Q. Where?
10 A. He was with Macon County Sheriff's
11 Department and also Notasulga Police
12 Department.
13 Q. How long was he in law enforcement?
14 A. Long time. 12 years.
15 Q. Are you currently employed?
16 A. Yes, sir.
17 Q. Where do you work?
18 A. Advanced Disposal Services.
19 Q. The defendant in this lawsuit?
20 A. Yes, sir.
21 Q. How long have you worked for Advanced
22 Disposal Services?
23 A. Right at six years.

Page 8

1 Q. What are your duties?
2 A. I'm the office manager. I handle human
3 resources, payroll, customer service.
4 Q. Anything else?
5 A. I handle a lot of stuff. As far as just
6 customer service, payroll, HR, sales
7 coordination. That's about it.
8 Q. When you say human resources, what do you
9 mean?
10 A. Benefits, personnel files.
11 Q. Right. But how does -- how does your work
12 relate to that? You don't pay the
13 benefits, obviously.
14 A. No. But I keep up with the personnel files
15 and do the payroll and enter all the
16 information.
17 Q. For the employees?
18 A. Yes.
19 Q. Anything else with regard to HR?
20 A. I handle any unemployment claims that come
21 in, verifications of employment. Things
22 like that.
23 Q. With regard to unemployment claims, did you

Page 9	Page 11
<p>1 handle Mr. Cannon's?</p> <p>2 A. Yes.</p> <p>3 Q. Does Advanced Disposal have an</p> <p>4 anti-harassment policy?</p> <p>5 A. Yes.</p> <p>6 Q. Does it have an anti-harassment policy with</p> <p>7 regard to sexual harassment?</p> <p>8 A. It's -- Yes.</p> <p>9 Q. Does it have a list of people who are to</p> <p>10 receive complaints of harassment within the</p> <p>11 company?</p> <p>12 A. They come to me or we get in touch with</p> <p>13 corporate, as far as Glenn Guest.</p> <p>14 Q. That wasn't quite my question, though.</p> <p>15 A. I'm sorry.</p> <p>16 Q. I'm talking about the anti-harassment</p> <p>17 policy in place. Is there -- Does the</p> <p>18 policy direct employees who have</p> <p>19 complaints --</p> <p>20 A. To call --</p> <p>21 Q. -- to certain people to register their</p> <p>22 complaints, certain people or certain</p> <p>23 offices within the company?</p>	<p>1 Q. What page are you reading from down at the</p> <p>2 bottom?</p> <p>3 A. Two and three. Page three.</p> <p>4 Q. Just give me the Bates stamp number at the</p> <p>5 bottom right, if you would.</p> <p>6 A. I'm sorry. 98.</p> <p>7 Q. Yes.</p> <p>8 MR. DYKES: 97 and 98.</p> <p>9 A. 97 and 98.</p> <p>10 Q. 97 and 98?</p> <p>11 A. (Witness nods head.)</p> <p>12 Q. And is that the portion of the handbook</p> <p>13 that relates to the anti-harassment policy</p> <p>14 we were speaking of earlier?</p> <p>15 A. Yes.</p> <p>16 Q. And it directs the employee to make reports</p> <p>17 to who?</p> <p>18 A. Direct supervisor, human resources manager,</p> <p>19 any member of upper management with whom</p> <p>20 you feel comfortable.</p> <p>21 Q. Would you call yourself a human resource</p> <p>22 manager?</p> <p>23 A. Yes.</p>
Page 10	Page 12
<p>1 A. I don't know. I don't know if it has</p> <p>2 individual names.</p> <p>3 MR. DYKES: Have you got the</p> <p>4 policy? I mean, she could ...</p> <p>5 MR. DOUGLAS: I've got what you</p> <p>6 provided if you want me to</p> <p>7 give that to her.</p> <p>8 Q. Let me ask you this. Did you receive a</p> <p>9 copy of the handbook from Advanced</p> <p>10 Disposal?</p> <p>11 A. Yes.</p> <p>12 Q. As an employee?</p> <p>13 A. Yes.</p> <p>14 Q. You're familiar with that?</p> <p>15 A. Yes.</p> <p>16 Q. I'm going to hand you what purports to be</p> <p>17 the Advanced Disposal Services and</p> <p>18 Subsidiaries Employee Handbook, which is</p> <p>19 Bates stamp ADS 91 through 125.</p> <p>20 A. Yes. It says the direct supervisors, human</p> <p>21 resources manager or upper management --</p> <p>22 Q. And what page are you --</p> <p>23 A. -- with whom you feel comfortable.</p>	<p>1 Q. So you are one of the people who could</p> <p>2 receive those types of complaints?</p> <p>3 A. Yes.</p> <p>4 Q. Did you know that before you read it in the</p> <p>5 policy just now?</p> <p>6 A. No. I mean, I knew that, yes. I'm sorry.</p> <p>7 Yes, I knew that before I read it in here.</p> <p>8 Q. Okay.</p> <p>9 A. Sorry. Yes. I misunderstood you.</p> <p>10 Q. Have you ever received a complaint from an</p> <p>11 employee regarding either sexual or racial</p> <p>12 harassment?</p> <p>13 A. Yes.</p> <p>14 Q. And do you always do the same thing when</p> <p>15 you receive those reports?</p> <p>16 A. Yes.</p> <p>17 Q. Tell me what you do.</p> <p>18 A. I usually write up what was given to me and</p> <p>19 then I get with the human resource director</p> <p>20 at corporate.</p> <p>21 Q. And who is that?</p> <p>22 A. Glenn Guest.</p> <p>23 Q. And he's in the room with us today?</p>

Page 13

1 A. Yes.
 2 Q. I don't want to quibble words with you. I
 3 just want to make sure I understand your
 4 testimony. I asked you if you did the same
 5 thing and you said usually I'll do --
 6 A. I'm sorry.
 7 Q. -- and you explained the process. Are
 8 there times when you don't do that?
 9 A. No. I do that.
 10 Q. That's what you always do?
 11 A. Yes, sir.
 12 Q. Are you charged with any responsibility as
 13 far as making a determination regarding a
 14 harassment complaint as far as who's right
 15 and who's wrong?
 16 A. No.
 17 Q. You just pass on the information to
 18 corporate?
 19 A. Yes.
 20 Q. With regard to payroll, what are your
 21 duties?
 22 A. I input payroll information. I check it
 23 and make sure it's correct. I send it to

Page 14

1 ADP, get it back, just preview it and then
 2 accept it.
 3 Q. What's ADP?
 4 A. It's the people who process our checks.
 5 Q. An outside company?
 6 A. Yes.
 7 Q. With regard to your duties concerning
 8 customer service, what do you do?
 9 A. I handle customer service complaints. I
 10 have customer service reps that take phone
 11 calls and help the customers. If they have
 12 an issue or a problem with an account, I
 13 help them with that.
 14 Q. Is it fair to say that you're available to
 15 help the customers with whatever complaints
 16 they may have?
 17 A. Yes.
 18 Q. And your company is in the business of
 19 what?
 20 A. Waste hauling.
 21 Q. And in layman's terms, what does that mean?
 22 A. Picking up garbage.
 23 Q. And doing what with it?

Page 15

1 A. Disposing of it.
 2 Q. Where do y'all dispose of it?
 3 A. In a landfill.
 4 Q. Which one?
 5 A. We have several. Well, as far as a
 6 landfill, one in Tallassee. But we have
 7 convenience centers also, or transfer
 8 stations.
 9 Q. In this area?
 10 A. Yes.
 11 Q. Where are they?
 12 A. We have one in Opelika and one in
 13 Montgomery.
 14 Q. You testified earlier that part of your
 15 duties was sales coordinator. What does
 16 that mean?
 17 A. I input sales contracts, make sure that the
 18 car -- cans are delivered and routed for
 19 the customer to be serviced.
 20 Q. Does your company provide the cans?
 21 A. Yes.
 22 Q. Are your customers all businesses, or do
 23 you have residential customers also?

Page 16

1 A. We have residential also.
 2 Q. So you do both?
 3 A. Yes.
 4 Q. Have we covered what your basic day-to-day
 5 duties are?
 6 A. Yes.
 7 Q. Have your duties changed at all in the six
 8 years that you've been with Advanced
 9 Disposal?
 10 A. No.
 11 Q. So you've been doing the same thing for six
 12 years?
 13 A. Well, the first year whenever I first
 14 started I was just commercial dispatch, and
 15 then the second year is whenever I became
 16 officer manager and had the other duties.
 17 Q. What does commercial dispatch mean?
 18 A. Where a customer calls in for a haul or a
 19 pull on a container and you dispatch it out
 20 to the drivers.
 21 Q. Would that be a business that would be
 22 calling?
 23 A. Yes. Business -- Well, yes, businesses and

Page 17

1 customers, business customers.
 2 Q. So even a residential customer might do
 3 that?
 4 A. If -- Not for the commercial side of it.
 5 But they would call in if there was a miss
 6 or something like that, and we'd handle it
 7 for them.
 8 Q. So you were commercial dispatcher for the
 9 first year?
 10 A. (Witness nods head.)
 11 Q. Then you became office manager; correct?
 12 A. Yes.
 13 Q. Is there a commercial dispatcher that works
 14 under you there now?
 15 A. Yes.
 16 Q. What is his or her name?
 17 A. Amy Kramer.
 18 Q. How long has she been in that job?
 19 A. She's been back now probably about four
 20 months.
 21 Q. Did she leave and come back?
 22 A. Uh-huh (positive response).
 23 Q. Why?

Page 18

1 A. She left and -- quit and went to another
 2 job and then came back. She had a baby in
 3 that time also.
 4 Q. Prior to working at Advanced Disposal,
 5 where did you work?
 6 A. CitiFinancial.
 7 Q. What did you do with CitiFinancial?
 8 A. I was a loan processor.
 9 Q. What type of loans?
 10 A. Personal loans, home loans, vehicle loans.
 11 Q. Where was that branch located?
 12 A. Opelika.
 13 Q. Opelika, not Auburn?
 14 A. Huh-uh (negative response).
 15 Q. Was it where the old Provino's used to be?
 16 A. There's one there, but there's also one
 17 down -- What shopping center is that? It's
 18 behind -- I think it's a Western Sizzlin or
 19 something. Up in that shopping center.
 20 Q. How long were you a loan processor for
 21 CitiFinancial?
 22 A. Three years.
 23 Q. Before that?

Page 19

1 A. Rental Uniform Service in Auburn.
 2 Q. What did you do there?
 3 A. I was a match out processor. Matched up
 4 the uniform shirts with the uniform pants.
 5 Q. Before that?
 6 A. I did that for nine years. I was in school
 7 before that.
 8 Q. What type of school were you in?
 9 A. High school.
 10 Q. Did you graduate from high school?
 11 A. Yes.
 12 Q. What high school?
 13 A. Notasulga High School.
 14 Q. What year?
 15 A. '90.
 16 Q. Did you attend any schooling after high
 17 school?
 18 A. No. I was a volunteer with the fire
 19 department, but other than that, I
 20 didn't -- I worked.
 21 Q. I asked you earlier about Mr. Cannon's --
 22 Mr. Robert Cannon's unemployment claim.
 23 A. Uh-huh (positive response).

Page 20

1 Q. Is that yes?
 2 A. Yes. I'm sorry.
 3 Q. You need to speak up so she can take it
 4 down.
 5 A. Yes.
 6 Q. What were your duties with regard to that
 7 claim?
 8 A. All I would do is, any information that was
 9 given to me in reference to a termination,
 10 put the dates and the cause and just fax it
 11 back. Or if they had any earnings, I would
 12 put the earnings on there.
 13 Q. Fax to who?
 14 A. The unemployment -- The people who sent it,
 15 the unemployment office.
 16 Q. Do you recall who you dealt with on
 17 Mr. Cannon's unemployment?
 18 A. No, sir, not an individual.
 19 Q. Do you know if there was a hearing?
 20 A. Yes, there was.
 21 Q. Did you attend that hearing?
 22 A. Yes, I did.
 23 Q. What was your role at the hearing?

Page 21

1 A. I was just there because I had filled out
2 paperwork. I didn't testify or anything.
3 Q. Who else was there?
4 A. Russell Davis.
5 Q. Why was he there?
6 A. He was the operations manager at the time.
7 Q. All right. What does an operations manager
8 do, if you know?
9 A. He's over all the drivers, making sure the
10 routes are picked up and handles complaints
11 and --
12 Q. In how many different locations?
13 A. As far as counties or ...
14 Q. Well, you tell me.
15 A. There was --
16 Q. Mr. Cannon worked out of Tallassee; is that
17 correct?
18 A. I don't remember. I don't remember where
19 he worked out of.
20 Q. How many areas did Mr. -- was Mr. Davis
21 over, if you know?
22 A. He had five counties.
23 Q. Okay.

Page 22

1 A. And it was Tallapoosa, Macon, Autauga,
2 Montgomery and Elmore.
3 Q. And Mr. Davis was over all the drivers in
4 those counties?
5 A. Yes.
6 Q. And he was at the unemployment hearing?
7 A. Yes.
8 Q. What was his role at the hearing?
9 A. He testified against -- as far as what
10 happened or in reference to the
11 termination.
12 Q. Did you review any information with
13 Mr. Davis prior to that hearing?
14 A. Yes.
15 Q. What information did you review with him?
16 A. The termination paperwork and the
17 information that we had filled out on the
18 unemployment form.
19 Q. And when you say we, who do you mean?
20 A. Well, I always got -- If I didn't know
21 everything that happened, or whatever, I
22 would get -- ask the -- ask him, ask the
23 supervisor.

Page 23

1 Q. Mr. Russell Davis?
2 A. Yes.
3 Q. And so did y'all meet before the hearing?
4 A. No. It was just a phone hearing.
5 Q. Okay. Well, I'm asking what, if anything,
6 you and Mr. Davis did before the hearing.
7 A. Nothing. We just got his paperwork
8 together for the hearing.
9 Q. Did you and Mr. Davis speak about what the
10 testimony might be at the hearing?
11 A. No.
12 Q. Was there anybody else at the hearing
13 besides you and Mr. Davis and Mr. Cannon?
14 A. The unemployment person. I don't know what
15 her name was.
16 Q. So four of you?
17 A. Yes.
18 Q. And you didn't testify at the hearing at
19 all?
20 A. No, sir.
21 Q. The hearing was done by telephone; is that
22 correct?
23 A. Yes, sir.

Page 24

1 Q. Were you and Mr. Davis at the same
2 location?
3 A. Yes.
4 Q. Did you write any notes for him while he
5 was testifying?
6 A. No.
7 Q. Did he write any notes to you while he was
8 testifying or while Mr. Cannon was
9 testifying?
10 A. No.
11 Q. So there was nothing passed between you
12 during the hearing?
13 A. No.
14 Q. Have you been at the same office for the
15 last five years?
16 A. I left for four weeks -- or excuse me --
17 eight weeks and came back.
18 Q. What do you mean when you say left?
19 A. I went into operations in June, went over
20 to be a supervisor, and it didn't work out
21 as far as the long hours. And they had
22 done away with office management, so I had
23 to -- I didn't have a position that I could

Page 25

1 be at, so I left and went to AES. And
 2 about -- after the eight weeks, the
 3 district manager called me back. And it's
 4 kind of like I didn't leave or -- you know,
 5 as far as benefits and things of that
 6 nature. Everything was the same.
 7 Q. What is AES?
 8 A. It's AES Mechanical. They handle HVAC,
 9 ventilation. Things of that nature.
 10 Q. What were your duties with them?
 11 A. I was the controller.
 12 Q. Is that another way of saying you kept the
 13 books?
 14 A. Yes. I'm sorry.
 15 Q. So when did this happen that you left
 16 Advanced for a short period?
 17 A. It was the end of June of '07.
 18 Q. Would you say that you quit or --
 19 A. Yes. I resigned.
 20 Q. You resigned?
 21 A. Uh-huh (positive response).
 22 Q. Didn't seek out any sort of unemployment
 23 benefits or anything?

Page 26

1 A. No.
 2 Q. But you weren't terminated?
 3 A. Right.
 4 Q. And the reason you quit was because ...
 5 A. They had eliminated my position.
 6 Q. And when you came back, they had reinstated
 7 your position?
 8 A. Yes.
 9 Q. The time that you've been working with
 10 Advanced over the last five years, have you
 11 always been in the same office?
 12 A. Yes.
 13 Q. What is that office address?
 14 A. 1303 Washington Boulevard, Tallassee.
 15 Q. Have you used the same computer the entire
 16 time you've been there?
 17 A. Yes.
 18 Q. Do you have e-mail?
 19 A. Yes.
 20 Q. Is it company e-mail?
 21 A. Yes.
 22 Q. For example, what is your e-mail address?
 23 A. sbearley@advanceddisposal.com

Page 27

1 Q. Did Mr. Davis have e-mails -- have e-mail?
 2 A. I wouldn't think so. He wasn't in the
 3 office. I'm sorry. Mr. Davis. I'm
 4 thinking Mr. Cannon. I apologize. Yes,
 5 sir, he did.
 6 Q. And you knew his e-mail address?
 7 A. Yes.
 8 Q. Does he still work for the company?
 9 A. No.
 10 Q. When did he stop working for the company?
 11 A. I don't remember.
 12 Q. Can you give me a year?
 13 A. I think it was March. March of '07 or
 14 something. No. It had to be later than
 15 that.
 16 MR. DYKES: If you don't know ...
 17 A. I don't know.
 18 Q. I don't know is a fine answer.
 19 A. Okay.
 20 Q. Are you confident it was in 2007?
 21 A. Yes.
 22 Q. Do you know where he is now?
 23 A. No.

Page 28

1 Q. Have you heard of where he is now?
 2 A. No.
 3 Q. Do you know why he left?
 4 A. No.
 5 Q. Did you hear any rumors as to why he left?
 6 A. I just know there was a new general
 7 manager. Right after the new general
 8 manager got there his position was
 9 eliminated.
 10 Q. Who was the new general manager?
 11 A. At that time it was Zach Poucher.
 12 Q. And is he still employed at Advanced
 13 Disposal?
 14 A. Yes.
 15 Q. Is he no longer the general manager?
 16 A. No. Well, I don't know what his position
 17 is now. He's at another location.
 18 Q. Okay. Do you know where Mr. Russell Davis
 19 lived while he was working at Advanced
 20 Disposal?
 21 A. Yes.
 22 Q. Where did he live?
 23 A. In Tallassee.

Page 29

1 Q. Do you know where in Tallassee?
 2 A. No, sir. I know Weldon Road, but I don't
 3 know his full address.
 4 Q. Did you exchange e-mails periodically with
 5 Mr. Russell Davis?
 6 A. No.
 7 Q. You guys never e-mailed one another --
 8 A. No, sir.
 9 Q. -- while he was working at Advanced?
 10 A. Right. No, sir.
 11 Q. Did you ever e-mail anybody or did anybody
 12 ever e-mail you regarding Mr. Cannon?
 13 A. No, sir.
 14 Q. Do you keep your e-mails from a couple of
 15 years ago or do you delete them?
 16 A. Usually I delete them. If they're not of
 17 any significance, I don't keep them.
 18 Q. Are you confident, though, as we sit here
 19 today you don't have anything on your
 20 computers as far as former e-mails
 21 regarding Mr. Cannon?
 22 A. I'm confident, yes.
 23 Q. Were you ever asked by anybody to see if

Page 30

1 there were any e-mails regarding
 2 Mr. Cannon?
 3 A. No.
 4 Q. When did you first meet Mr. Robert Cannon?
 5 A. I never have.
 6 Q. You've never met him?
 7 A. (Witness shakes head.)
 8 Q. Is that, no, I've never met him?
 9 A. No, I've never met him. I'm sorry.
 10 Q. Do you have any idea what he looks like?
 11 A. No, sir.
 12 Q. Have you ever talked to him?
 13 A. No, sir, not that I can remember.
 14 Q. Probably would have heard him at the
 15 hearing.
 16 A. I heard him at the hearing, but I didn't
 17 talk with him.
 18 Q. Other than that, have you ever heard his
 19 voice?
 20 A. No, sir.
 21 Q. Tell me about the -- Tell me about your
 22 role, if any, in the drug screening
 23 procedure for Advanced. Did you have

Page 31

1 anything to do with that?
 2 A. No, sir.
 3 Q. Do you have anything to do with telling the
 4 employees when or where they're getting
 5 tested?
 6 A. The only time I would have anything to do
 7 with -- as far as telling them where to be
 8 tested is if a supervisor is not there.
 9 And we would have them a sheet. The
 10 supervisor would tell me to fill out that
 11 sheet as far as where to send them, but
 12 other than that ...
 13 Q. Do you typically fill out those sheets?
 14 A. No.
 15 Q. So that would be something that would be
 16 out of the ordinary for you?
 17 A. Yes.
 18 Q. Is your -- In your position are you drug
 19 tested with the company?
 20 A. Yes.
 21 Q. Randomly?
 22 A. Uh-huh (positive response).
 23 Q. Is that yes?

Page 32

1 A. Yes. Sorry.
 2 Q. Are you aware of the company's policy with
 3 regard to testing positive for illegal
 4 drugs?
 5 A. Yes.
 6 Q. What is that policy?
 7 A. You're terminated.
 8 Q. No matter your position?
 9 A. No matter your position.
 10 Q. No matter which illegal drug?
 11 A. No matter.
 12 Q. Is that correct?
 13 A. That's correct.
 14 Q. Were you told that when you were hired?
 15 A. Yes.
 16 Q. Do you know anything about the companies
 17 which your company sends the specimens to
 18 to be drug tested?
 19 A. No.
 20 Q. Are you in any way involved with selecting
 21 which company will be used?
 22 A. No.
 23 Q. Do you have any involvement in collecting

Page 33	Page 35
<p>1 the samples to be sent off?</p> <p>2 A. No.</p> <p>3 Q. Do you have anything to do with the</p> <p>4 packaging of the samples to be sent off?</p> <p>5 A. No.</p> <p>6 Q. When the results come back, do they come</p> <p>7 back to you?</p> <p>8 A. No.</p> <p>9 Q. Who do they come back to?</p> <p>10 A. It's usually the operations manager -- or</p> <p>11 is the operations manager or the</p> <p>12 supervisor. Now it's the safety manager.</p> <p>13 We have a safety manager.</p> <p>14 Q. But when Mr. Cannon worked there, who did</p> <p>15 they come to?</p> <p>16 A. Russell Davis.</p> <p>17 Q. Would you ever lay eyes on anybody's -- the</p> <p>18 results from anyone's -- any employee's</p> <p>19 drug screen?</p> <p>20 A. Only when it's brought to put in their</p> <p>21 personnel file.</p> <p>22 Q. And at that point you would put it in the</p> <p>23 file?</p>	<p>1 Q. Your first knowledge of this was before</p> <p>2 Mr. Cannon was fired?</p> <p>3 A. As -- No. Whenever I received the</p> <p>4 termination paper on him, he was already</p> <p>5 terminated.</p> <p>6 Q. Was that, like, a day or two after he was</p> <p>7 terminated --</p> <p>8 A. Yes.</p> <p>9 Q. -- or some time after?</p> <p>10 A. It was after -- after he was terminated. I</p> <p>11 don't remember how many days or anything</p> <p>12 like that.</p> <p>13 Q. And I guess that would have come to you</p> <p>14 just in a sense that you were to file the</p> <p>15 paperwork?</p> <p>16 A. Right.</p> <p>17 Q. Is that correct?</p> <p>18 A. Right.</p> <p>19 Q. Did Mr. -- Is it Futral?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did he make any comments to you regarding</p> <p>22 Mr. Cannon?</p> <p>23 A. No, sir.</p>
Page 34	Page 36
<p>1 A. Yes.</p> <p>2 Q. Would it be your practice to look and see</p> <p>3 if they passed or not?</p> <p>4 A. No. I just look at the name and file it.</p> <p>5 Q. What was your first knowledge of this</p> <p>6 case -- Mr. Cannon's case?</p> <p>7 A. When I received a termination form.</p> <p>8 Q. Who did you receive that from?</p> <p>9 A. Danny Futral.</p> <p>10 Q. Do you know when that was?</p> <p>11 A. No, I don't know.</p> <p>12 Q. Was it before he was terminated?</p> <p>13 MR. DYKES: Are you asking about</p> <p>14 this case, the lawsuit, or are</p> <p>15 you asking about, I guess --</p> <p>16 MR. DOUGLAS: I was. But it looks</p> <p>17 like she was going a different</p> <p>18 direction, which is fine with</p> <p>19 me.</p> <p>20 MR. DYKES: Okay. And you can</p> <p>21 keep going. I think she</p> <p>22 was ...</p> <p>23 MR. DOUGLAS: Right.</p>	<p>1 Q. Not a word?</p> <p>2 A. Huh-uh (negative response).</p> <p>3 Q. Is that no?</p> <p>4 A. No.</p> <p>5 Q. And did you make any inquiry as to why</p> <p>6 Mr. Cannon was being terminated?</p> <p>7 A. No.</p> <p>8 Q. After that what was your next knowledge of</p> <p>9 this situation?</p> <p>10 A. I guess I'm not understanding. Is it the</p> <p>11 lawsuit or the termination?</p> <p>12 Q. The termination.</p> <p>13 A. The next thing would have been the</p> <p>14 unemployment papers that I received.</p> <p>15 Q. And have you told me everything that you</p> <p>16 did with regard to the unemployment</p> <p>17 proceeding?</p> <p>18 A. Yes.</p> <p>19 Q. You've already testified about that?</p> <p>20 A. No. No.</p> <p>21 Q. Tell me what you --</p> <p>22 A. I'm sorry.</p> <p>23 Q. -- haven't told me.</p>

Page 37

1 A. I mean, the unemployment paper. I would
 2 fill out the unemployment paper, fax it
 3 over, and then there was an appeal in
 4 reference to the benefits. And that was
 5 it.
 6 Q. And you've testified about that?
 7 A. Yes.
 8 Q. And then the hearing?
 9 A. Yes. Sorry.
 10 Q. Just relax. Everything is fine.
 11 Do you recall what your next knowledge
 12 was about Mr. Cannon's situation?
 13 A. Just this, the deposition.
 14 Q. Did you know that a lawsuit had been filed?
 15 A. No.
 16 Q. Until -- I guess you knew when you were
 17 told you were going to have to give a
 18 deposition?
 19 A. Yes. Yesterday.
 20 Q. So yesterday was the first you knew that
 21 Mr. Cannon had filed a lawsuit against your
 22 company?
 23 A. Yes.

Page 38

1 Q. So, obviously, then, you haven't talked to
 2 anybody about his situation or his lawsuit?
 3 A. No.
 4 Q. And nobody has talked to you?
 5 A. No.
 6 Q. I'm going to show you a document which was
 7 marked to Mr. Cannon's deposition earlier
 8 today. It was marked as Defendant's
 9 Exhibit Number 19 to Mr. Cannon's
 10 deposition. I'm going to ask if you
 11 recognize that document.
 12 A. Yes.
 13 Q. What is that document?
 14 A. It's a verification of employment.
 15 Q. It's a two-page document. Is -- Are both
 16 pages verification of employment?
 17 A. Just the one page.
 18 Q. The second page?
 19 A. The second page.
 20 Q. The first page is what?
 21 A. Just the fax cover sheet.
 22 Q. And did you fax that document?
 23 A. Yes.

Page 39

1 Q. And on that document you made a notation
 2 regarding Mr. Cannon's employment with
 3 Advanced; is that correct?
 4 A. Yes.
 5 Q. And one of the things that you noted was
 6 that he had failed or was in violation of
 7 the company's drug and alcohol policy; is
 8 that correct?
 9 A. Yes.
 10 Q. On what basis did you make that notation?
 11 A. That was on his termination paper.
 12 Q. I want to be sure that I know exactly what
 13 you're speaking of, so I'm going to show
 14 you two documents which were previously
 15 marked Defendant's Exhibit 13 and
 16 Defendant's Exhibit 14 to Mr. Cannon's
 17 deposition and ask you if you can identify
 18 those documents.
 19 A. Yes.
 20 Q. What are they? Starting with 13.
 21 A. This is a final clearance for terminating
 22 employee.
 23 Q. And what is 14?

Page 40

1 A. Employee disciplinary report.
 2 Q. Now, when I asked you what you based the
 3 notation you made on Defendant's Exhibit
 4 19, you mentioned something.
 5 A. Yes.
 6 Q. Is that something you mentioned either
 7 Defendant's 13 or 14?
 8 A. Yes. They were together.
 9 Q. They go together?
 10 A. Yes.
 11 Q. So based upon what was -- what you saw on
 12 Defendant's Exhibits 13 and 14, you made
 13 the notation of violation of company's
 14 alcohol and drug policy --
 15 A. Yes.
 16 Q. -- that's located on Defendant's Exhibit
 17 19?
 18 A. Yes. Yes.
 19 Q. Did you base that entry on anything other
 20 than Defendant's 13 and 14?
 21 A. No.
 22 Q. I'm going to show you what was previously
 23 marked as Defendant's Exhibit 10 and ask

Page 41	Page 43
<p>1 you if you can identify that document.</p> <p>2 A. Yes.</p> <p>3 Q. What is that?</p> <p>4 A. The results of a drug test.</p> <p>5 Q. Do you know if that document was in</p> <p>6 Mr. Cannon's personnel file?</p> <p>7 A. Yes.</p> <p>8 Q. How do you know that?</p> <p>9 A. Because I filed it there.</p> <p>10 Q. Did you rely on that document in preparing</p> <p>11 anything that's contained on Defendant's</p> <p>12 Exhibit 19?</p> <p>13 A. No.</p> <p>14 Q. What is St. Louis MRO comma Inc.?</p> <p>15 A. That's the company that they send the</p> <p>16 specimens to, I guess.</p> <p>17 Q. You've testified you don't have anything to</p> <p>18 do with that?</p> <p>19 A. No.</p> <p>20 Q. All right. I'm going to -- And for the</p> <p>21 Record, Defendant's Exhibit 10 indicates a</p> <p>22 positive drug screen for cocaine; is that</p> <p>23 correct?</p>	<p>1 A. I mean, I knew of them being filed, but I</p> <p>2 didn't look at the results. And that's not</p> <p>3 what I based this off of.</p> <p>4 Q. So Defendant's Exhibit 19 would only be as</p> <p>5 accurate as Defendant's Exhibits 13 and 14</p> <p>6 were?</p> <p>7 A. Yes. This paper when it came in, I got</p> <p>8 with the operations manager. And --</p> <p>9 Q. Is that Mr. Russell Davis?</p> <p>10 A. Yes.</p> <p>11 And he told me as far as the reasoning</p> <p>12 right here, but everything else --</p> <p>13 MR. DYKES: You're pointing to --</p> <p>14 THE WITNESS: I'm sorry.</p> <p>15 MR. DYKES: -- if yes, give date</p> <p>16 and explain?</p> <p>17 THE WITNESS: Yes.</p> <p>18 A. About the two tests. He told me about</p> <p>19 that. And I wrote what he was saying.</p> <p>20 Q. And could you read that for the Record?</p> <p>21 A. 3/9/07 results came back in reference to</p> <p>22 preemployment testing, had to take two</p> <p>23 tests. First test had wrong social</p>
Page 42	Page 44
<p>1 A. Yes.</p> <p>2 Q. All right. I'm going to show you what was</p> <p>3 previously marked to Mr. Cannon's</p> <p>4 deposition as Defendant's Exhibit 11. Do</p> <p>5 you recognize that document?</p> <p>6 A. Yes.</p> <p>7 Q. What is that?</p> <p>8 A. It's a drug screen -- results of a drug</p> <p>9 screen.</p> <p>10 Q. And you note on that document that the</p> <p>11 results for the test of all illegal drugs</p> <p>12 are negative?</p> <p>13 A. Yes.</p> <p>14 Q. That were tested for?</p> <p>15 A. Yes.</p> <p>16 Q. Were you aware at the point in time that</p> <p>17 you sent Defendant's Exhibit 19 that there</p> <p>18 were drug tests a couple of weeks apart</p> <p>19 which showed different results --</p> <p>20 A. No.</p> <p>21 Q. -- in Mr. Cannon's file?</p> <p>22 A. No.</p> <p>23 Q. Had no idea?</p>	<p>1 security number on it, so we retested.</p> <p>2 Q. Well, at that point did you feel any need</p> <p>3 to perhaps go and look at the two tests</p> <p>4 themselves?</p> <p>5 A. No. I didn't.</p> <p>6 Q. Why not?</p> <p>7 A. I didn't -- As far as this, I didn't -- I</p> <p>8 don't know. I didn't go look at the</p> <p>9 testing. I just went off the termination</p> <p>10 information, and I tried to get the</p> <p>11 operations manager to fill this out in</p> <p>12 reference to employment verification,</p> <p>13 because ...</p> <p>14 Q. And who were you sending Defendant's</p> <p>15 Exhibit 19 to?</p> <p>16 A. Ann Dora's Custom Wrought Iron.</p> <p>17 Q. Do you have any idea what kind of company</p> <p>18 that is?</p> <p>19 A. No, sir.</p> <p>20 Q. Is it --</p> <p>21 A. Other than wrought iron. I don't know what</p> <p>22 that is.</p> <p>23 Q. In your experience working with companies,</p>

Page 45

1 would you agree with me that having a
 2 positive drug screen will affect an
 3 applicant negatively as far as getting
 4 employment?
 5 A. I would think so. But if it's in reference
 6 to a driver, I feel like it, you know --
 7 we're supposed to tell them that in
 8 reference to DOT.
 9 Q. Oh, I'm not -- I'm not arguing that you
 10 shouldn't do that.
 11 A. Right.
 12 Q. I'm just asking your opinion as --
 13 A. Oh, yeah.
 14 Q. -- if -- Do you have any responsibilities
 15 with regard to hiring people for your
 16 company?
 17 A. No.
 18 Q. No input whatsoever?
 19 A. No.
 20 Q. Okay.
 21 A. I mean, we would interview, or whatever.
 22 If we -- If someone asked you your
 23 opinion. But, no, nothing -- nothing

Page 46

1 permanent; I mean, yes or no, would I hire
 2 him or not.
 3 Q. Are you involved in the hiring decisions of
 4 new employees in any way?
 5 A. Only in customer service. Not drivers or
 6 anything like that.
 7 Q. Customer service employees?
 8 A. Yes.
 9 (Off-the-Record discussion.)
 10 Q. On Defendant's Exhibit 11, there's a name
 11 in the upper left-hand portion that's
 12 written. It says, attention Ms. Pullum; is
 13 that right?
 14 A. Pullum.
 15 Q. Do you know who that person might be?
 16 A. No.
 17 Q. How about the handwritten portion on the
 18 upper right-hand portion of Defendant's
 19 Exhibit 11?
 20 A. No.
 21 Q. Can you read it?
 22 A. Claimant. I don't know what that is. And
 23 then 420-88-2743 is what it looks like.

Page 47

1 Q. Do you know if that's Mr. Cannon's social
 2 security number or not?
 3 A. I don't know without looking at it.
 4 Q. But that's not your handwriting, I take it?
 5 A. No.
 6 Q. You didn't write any of the stuff that is
 7 written on Defendant's Exhibit 11?
 8 A. No.
 9 Q. How about the part just below the MRO,
 10 which is underlined? Are you able to read
 11 that?
 12 A. This is the company drug screen.
 13 Q. But you didn't write it?
 14 A. No.
 15 Q. Do you recognize the handwriting?
 16 A. No.
 17 Q. Defendant's Exhibit Number 10, there's a --
 18 something that's written by hand just to
 19 the right of the MRO logo. Can you read
 20 that?
 21 A. It might say Russell.
 22 Q. Is that your --
 23 A. That's what it looks like.

Page 48

1 Q. -- handwriting?
 2 A. No.
 3 Q. Do you recognize the handwriting?
 4 A. No.
 5 Q. Do you have any idea who wrote it?
 6 A. No.
 7 Q. There's a number written up in the upper
 8 left-hand portion of Defendant's Exhibit
 9 11. Number 26, is it?
 10 A. Uh-huh (positive response).
 11 Q. Is that yes?
 12 A. Yes.
 13 Q. Did you write that?
 14 A. No.
 15 Q. Do you know who did?
 16 A. No.
 17 Q. Do you know if it would mean anything as
 18 far as your company's bookkeeping goes?
 19 A. No.
 20 Q. Did you speak with anyone at Ann Dora's
 21 Custom Wrought Iron?
 22 A. No.
 23 Q. Did anyone from there call you?

Page 49

1 A. No.
 2 Q. On Defendant's Exhibit 19, it looks like
 3 they spelled your name incorrectly --
 4 A. Yes.
 5 Q. -- at first. Do you -- Did you scratch
 6 out --
 7 A. I did, yes. When I refaxed it.
 8 Q. And in the from column, it says from -- I
 9 don't know what that name is. It looks
 10 look it starts with an A. Do you have any
 11 idea?
 12 A. I don't know.
 13 Q. Do you have any recollection of who you
 14 spoke with, if anybody?
 15 A. I didn't speak with anybody.
 16 Q. You're sure of that?
 17 A. I'm sure.
 18 Q. Do you know who Bill Lucas is?
 19 A. No.
 20 Q. The explanation that's contained on
 21 Defendant's Exhibit 19, which you read into
 22 the Record earlier -- Do you recall that?
 23 A. Yes.

Page 50

1 Q. That is your handwriting, I take it?
 2 A. Yes.
 3 Q. But you're saying that Mr. Davis told you
 4 to write that?
 5 A. Yes.
 6 Q. Was he standing over your shoulder at the
 7 time?
 8 A. He was in my office, yes.
 9 Q. And he was basically just giving you
 10 dictation and you were --
 11 A. Right.
 12 Q. -- copying down exactly what he said?
 13 A. Right.
 14 Q. Did you ask him what should be written
 15 there, if anything, or did he direct you to
 16 write that?
 17 A. No. I asked him.
 18 Q. Why?
 19 A. Because on the -- I knew it was terminated
 20 in violation of drug policy, but I didn't
 21 know if I needed to write anything else as
 22 far as an explanation.
 23 Q. Have you had occasion to fill out forms

Page 51

1 similar to these on employees who have been
 2 fired due to violation of the company's
 3 drug and alcohol policy?
 4 A. I do that with every individual.
 5 Q. What's that? You do what?
 6 A. I'm sorry. Filling out the verification of
 7 employment.
 8 Q. Well, I understand that. I'm asking if you
 9 filled one out, other than Mr. Cannon,
 10 where the termination was checked for
 11 violation of the company's alcohol and drug
 12 policy.
 13 A. I don't recall.
 14 Q. Don't recall one way or the other?
 15 A. I don't recall.
 16 Q. The reason I ask you that question is
 17 because you said that you knew because it
 18 was a positive drug test or failure of the
 19 drug policy that you might need to write
 20 something out. At least that's what I
 21 understood you to say.
 22 A. Well, any time -- If a driver verification
 23 comes over, I try to get the supervisor to

Page 52

1 fill it out in reference to what they know,
 2 because I don't know everything other than
 3 what's on the paperwork that's given for
 4 termination. So I don't know if, you
 5 know ...
 6 Q. So you requested an explanation from
 7 Mr. Davis?
 8 A. Well, I didn't know based on him being a
 9 driver and terminated for the violation of
 10 policy, or whatever, if we needed to write
 11 an explanation or anything.
 12 Q. So you inquired of Mr. Davis as to whether
 13 something needed to be written?
 14 A. Yes.
 15 Q. As an explanation?
 16 A. Yes.
 17 Q. And he said, yes, and what appears on
 18 Defendant's Exhibit 19 is what he told you
 19 to write?
 20 A. Yes.
 21 Q. You're certain of that?
 22 A. Yes.
 23 Q. Have you spoken to Mr. Davis about this

Page 53

1 case at all?

2 A. No.

3 Q. Do you have any people who live in Lee,

4 Macon, Randolph or Tallapoosa County --

5 A. I do in --

6 Q. -- that are members of your family or by

7 blood or marriage?

8 A. I do in Macon and Tallapoosa.

9 Q. Can you give me their names and their

10 relationship to you?

11 A. Aleshia McKee is my stepsister. Lee McKee

12 is my brother-in-law. Sue Estridge is my

13 stepmother. They live in Macon County.

14 And then in Tallapoosa it's my husband,

15 Jerry Beasley, and my sons; Brent, Heath

16 Chance and Brady Beasley.

17 Q. Any other family members by blood or

18 marriage?

19 A. No.

20 Q. None of your husband's family live in those

21 counties?

22 A. He has family but I don't know them.

23 Q. I need to add Chambers County to my

Page 54

1 question, too.

2 A. Chambers, no.

3 Q. Any friends, any -- Not just people you

4 might know but any people you would call

5 your friends that live in those counties?

6 A. Yes. Kelly Bass in Macon County. Jennifer

7 Hatchett in Tallapoosa. I guess that would

8 be it.

9 Q. The reason I'm asking is if this case were

10 tried and you might be a witness in the

11 case, I might need to know who your friends

12 would be.

13 A. I understand.

14 Q. So are there any others you can think of?

15 A. Other than coworkers.

16 Q. Well, tell me who your coworkers are.

17 A. Julie Bice, Tonya Davis, Renee Harper, Kim

18 Whitfield, Sue Daughtry, Vernon Hunter.

19 MR. DYKES: I think if they're

20 coworkers, they've got a place

21 of employment on the jury

22 list, so, I mean ...

23 Q. You were about done, weren't you?

Page 55

1 A. Huh?

2 Q. Weren't you about done?

3 A. There's a lot more.

4 MR. DYKES: Yeah.

5 A. I mean, it's just coworkers that I work

6 with daily.

7 Q. Okay. These are all people that currently

8 work at Advanced?

9 A. Right.

10 Q. Are there any people that used to work

11 there who don't work there any longer who

12 you would call your friends?

13 A. No.

14 Q. Anybody you might have dinner with or

15 something like that?

16 A. No.

17 Q. Have you ever been terminated from a job?

18 A. No.

19 Q. Have you ever made a claim of any type of

20 workplace harassment?

21 A. No.

22 Q. Have you ever been the victim of any type

23 of workplace harassment that you didn't

Page 56

1 report?

2 A. No.

3 Q. Are you aware of any instances of racial

4 harassment at Advanced that you've noticed?

5 A. No.

6 Q. Have you ever received a complaint at

7 Advanced of racial harassment?

8 A. No.

9 Q. Have you ever received a complaint of any

10 type of harassment at Advanced?

11 A. Yes.

12 Q. How many times?

13 A. Just one.

14 Q. And you would have taken whatever steps you

15 explained earlier?

16 A. Yes.

17 Q. If you'll give me just a minute, I'll be

18 about done.

19 (Off-the-Record discussion.)

20 Q. Just one more question.

21 Did you have any knowledge that

22 Mr. Cannon had filed a complaint with the

23 Equal Employment Opportunity Commission?

Page 57

1 A. No.
 2 Q. Did you get any documents together for the
 3 EEOC?
 4 A. No, I don't think so.
 5 Q. Not that you recall?
 6 A. Not that I recall.
 7 Q. All right. I think that's all the
 8 questions I have for you.
 9 MR. DYKES: I don't have any.

10 *****

11 FURTHER DEPONENT SAITH NOT

12 *****

Page 59

1 The foregoing 58 computer-printed pages
 2 contain a true and correct transcript of the
 3 examination of said witness by counsel for the
 4 parties set out herein. The reading and signing of
 5 same is hereby waived.

6 I further certify that I am neither of kin
 7 nor of counsel to the parties to said cause nor in
 8 any manner interested in the results thereof.

9 This 2nd day of May 2008.

10
 11
 12
 13 _____
 Haley A. Phillips, ACCR #151
 Expiration Date: 9/30/08
 Certified Court Reporter and
 Commissioner for the State
 of Alabama at Large

Page 58

1 REPORTER'S CERTIFICATE
 2 STATE OF ALABAMA:
 3 ELMORE COUNTY:
 4 I, Haley A. Phillips, Certified Court
 5 Reporter, ACCR # 151, and Commissioner for the
 6 State of Alabama at Large, do hereby certify that I
 7 reported the deposition of:
 8 SHERRY BEASLEY
 9 who was first duly sworn by me to speak the truth,
 10 the whole truth and nothing but the truth, in the
 11 matter of:
 12 ROBERT CANNON,
 13 Plaintiff,
 14 vs.
 15 ADVANCED DISPOSAL SERVICES
 16 ALABAMA, LLC, d/b/a SUNFLOWER
 17 WASTE, LLC,
 18 Defendants.
 19 In The U.S. District Court
 20 For the Middle District of Alabama
 21 Eastern Division
 22 Case Number 3:07-CV-846-WKW
 23 on Thursday, April 10, 2008.

<p>A</p> <p>able 47:10</p> <p>about 5:23 8:7 9:16 17:19 19:21 23:9 25:2 30:21,21 32:16 34:13,15 36:19 37:6 37:12 38:2 43:18,18 46:17 47:9 52:23 54:23 55:2 56:18</p> <p>accept 14:2</p> <p>account 14:12</p> <p>ACCR 1:16 3:7 58:5 59:13</p> <p>accurate 43:5</p> <p>ACTION 1:7</p> <p>add 53:23</p> <p>address 5:16,22 26:13 26:22 27:6 29:3</p> <p>ADP 14:1,3</p> <p>ADS 10:19</p> <p>Advanced 1:8 7:18,21 9:3 10:9,17 16:8 18:4 25:16 26:10 28:12,19 29:9 30:23 39:3 55:8 56:4,7,10 58:15</p> <p>AES 25:1,7,8</p> <p>affect 45:2</p> <p>after 4:6 19:16 25:2 28:7 35:6,9,10,10 36:8</p> <p>against 22:9 37:21</p> <p>ago 29:15</p> <p>agree 45:1</p> <p>agreed 3:2,16,23</p> <p>agreement 1:15</p> <p>Alabama 1:2,8,17,19 2:6,10 3:8 6:15 58:2 58:6,16,20 59:15</p> <p>alcohol 39:7 40:14 51:3 51:11</p> <p>Aleshia 53:11</p> <p>already 35:4 36:19</p> <p>always 12:14 13:10 22:20 26:11</p> <p>Amy 17:17</p> <p>Ann 44:16 48:20</p> <p>another 18:1 25:12 28:17 29:7</p> <p>answer 5:10 27:18</p> <p>anti-harassment 9:4,6 9:16 11:13</p> <p>anybody 6:1 23:12 29:11,11,23 38:2 49:14,15 55:14</p> <p>anybody's 33:17</p> <p>anyone 48:20,23</p> <p>anyone's 33:18</p> <p>anything 8:4,19 21:2</p>	<p>23:5 25:23 29:19 31:1,3,6 32:16 33:3 35:11 40:19 41:11,17 46:6 48:17 50:15,21 52:11</p> <p>apart 42:18</p> <p>apologize 27:4</p> <p>appeal 37:3</p> <p>APPEARANCES 2:1</p> <p>appears 52:17</p> <p>applicant 45:3</p> <p>approximately 1:20</p> <p>April 1:19 58:23</p> <p>area 15:9</p> <p>areas 21:20</p> <p>arguing 45:9</p> <p>asked 13:4 19:21 29:23 40:2 45:22 50:17</p> <p>asking 4:21 23:5 34:13 34:15 45:12 51:8 54:9</p> <p>Associated 6:21</p> <p>assume 5:11</p> <p>attend 19:16 20:21</p> <p>attention 46:12</p> <p>Attorneys 2:9</p> <p>Auburn 1:19 2:6 18:13 19:1</p> <p>Autauga 22:1</p> <p>available 14:14</p> <p>Avenue 2:9 5:17</p> <p>aware 32:2 42:16 56:3</p> <p>away 24:22</p> <p>B</p> <p>B 2:4,5</p> <p>baby 18:2</p> <p>back 14:1 17:19,21 18:2 20:11 24:17 25:3 26:6 33:6,7,9 43:21</p> <p>base 40:19</p> <p>based 40:2,11 43:3 52:8</p> <p>basic 16:4</p> <p>basically 50:9</p> <p>basis 39:10</p> <p>Bass 54:6</p> <p>Bates 10:19 11:4</p> <p>Beasley 1:14 3:4 4:5,12 4:13 6:10,19 53:15 53:16 58:8</p> <p>became 16:15 17:11</p> <p>before 1:15 3:6 4:19 5:20 7:7 12:4,7 18:23 19:5,7 23:3,6 34:12 35:1</p> <p>behind 18:18</p> <p>being 5:1 36:6 43:1</p>	<p>52:8</p> <p>below 47:9</p> <p>benefits 8:10,13 25:5 25:23 37:4</p> <p>besides 23:13</p> <p>best 5:4</p> <p>between 3:3,17 4:1 24:11</p> <p>Bice 54:17</p> <p>Bill 49:18</p> <p>Birmingham 2:10</p> <p>blood 53:7,17</p> <p>bookkeeping 48:18</p> <p>books 25:13</p> <p>both 16:2 38:15</p> <p>bottom 11:2,5</p> <p>Boulevard 26:14</p> <p>Brady 53:16</p> <p>branch 18:11</p> <p>Brent 6:10 53:15</p> <p>Brooks 2:8</p> <p>brother-in-law 53:12</p> <p>brought 33:20</p> <p>business 14:18 16:21 16:23 17:1</p> <p>businesses 15:22 16:23</p> <p>C</p> <p>call 9:20 11:21 17:5 48:23 54:4 55:12</p> <p>called 25:3</p> <p>calling 16:22</p> <p>calls 14:11 16:18</p> <p>came 18:2 24:17 26:6 43:7,21</p> <p>Cannon 1:5 4:14 21:16 23:13 24:8 27:4 29:12,21 30:2,4 33:14 35:2,22 36:6 37:21 51:9 56:22 58:12</p> <p>Cannon's 9:1 19:21,22 20:17 34:6 37:12 38:7,9 39:2,16 41:6 42:3,21 47:1</p> <p>cans 15:18,20</p> <p>car 15:18</p> <p>case 3:18,20 34:6,6,14 53:1 54:9,11 58:22</p> <p>Catherine 1:18 2:5</p> <p>cause 20:10 59:7</p> <p>center 18:17,19</p> <p>centers 15:7</p> <p>certain 9:21,22,22 52:21</p> <p>CERTIFICATE 58:1</p> <p>Certified 1:16 3:7 58:4 59:14</p> <p>certify 58:6 59:6</p>	<p>Chambers 53:23 54:2</p> <p>Chance 53:16</p> <p>changed 16:7</p> <p>charged 13:12</p> <p>check 13:22</p> <p>checked 51:10</p> <p>checks 14:4</p> <p>CitiFinancial 18:6,7,21</p> <p>Civil 1:7 3:5</p> <p>claim 19:22 20:7 55:19</p> <p>Claimant 46:22</p> <p>claims 8:20,23</p> <p>clearance 39:21</p> <p>cocaine 41:22</p> <p>collecting 32:23</p> <p>column 49:8</p> <p>come 8:20 9:12 17:21 33:6,6,9,15 35:13</p> <p>comes 51:23</p> <p>comfortable 10:23 11:20</p> <p>comma 41:14</p> <p>commencing 1:20</p> <p>comments 35:21</p> <p>commercial 16:14,17 17:4,8,13</p> <p>commission 3:9 56:23</p> <p>Commissioner 1:17 3:8 58:5 59:14</p> <p>companies 32:16 44:23</p> <p>company 7:2 9:11,23 14:5,18 15:20 26:20 27:8,10 31:19 32:17 32:21 37:22 41:15 44:17 45:16 47:12</p> <p>company's 32:2 39:7 40:13 48:18 51:2,11</p> <p>complaint 12:10 13:14 56:6,9,22</p> <p>complaints 9:10,19,22 12:2 14:9,15 21:10</p> <p>computer 26:15</p> <p>computers 29:20</p> <p>computer-printed 59:1 29:22</p> <p>Constangy 2:8</p> <p>contain 59:2</p> <p>contained 41:11 49:20</p> <p>container 16:19</p> <p>Contractors 6:22</p> <p>contracts 15:17</p> <p>controller 25:11</p> <p>convenience 15:7</p> <p>coordination 8:7</p> <p>coordinator 15:15</p> <p>copy 10:9</p> <p>copying 50:12</p>	<p>corporate 9:13 12:20 13:18</p> <p>correct 13:23 17:11 21:17 23:22 32:12,13 35:17 39:3,8 41:23 59:2</p> <p>counsel 3:3,17 59:3,7</p> <p>counties 21:13,22 22:4 53:21 54:5</p> <p>County 7:10 53:4,13,23 54:6 58:3</p> <p>couple 29:14 42:18</p> <p>court 1:1,16,19 2:5 3:7 5:2 58:4,19 59:14</p> <p>cover 38:21</p> <p>covered 16:4</p> <p>coworkers 54:15,16,20 55:5</p> <p>currently 7:15 55:7</p> <p>Custom 44:16 48:21</p> <p>customer 8:3,6 14:8,9 14:10 15:19 16:18 17:2 46:5,7</p> <p>customers 14:11,15 15:22,23 17:1,1</p> <p>D</p> <p>daily 55:6</p> <p>Danny 34:9</p> <p>date 43:15 59:13</p> <p>dates 20:10</p> <p>Daughtry 54:18</p> <p>Davis 21:4,20 22:3,13 23:1,6,9,13 24:1 27:1 27:3 28:18 29:5 33:16 43:9 50:3 52:7 52:12,23 54:17</p> <p>day 35:6 59:9</p> <p>days 35:11</p> <p>day-to-day 16:4</p> <p>dealt 20:16</p> <p>decisions 46:3</p> <p>defendant 1:10 2:7 7:19</p> <p>Defendants 58:18</p> <p>Defendant's 38:8 39:15 39:16 40:3,7,12,16 40:20,23 41:11,21 42:4,17 43:4,5 44:14 46:10,18 47:7,17 48:8 49:2,21 52:18</p> <p>delete 29:15,16</p> <p>delivered 15:18</p> <p>department 7:11,12 19:19</p> <p>DEPONENT 57:11</p> <p>deposition 1:14 3:4,6 3:13,18 4:2,19 37:13 37:18 38:7,10 39:17</p>
--	--	--	---	---

42:4 58:7 determination 13:13 dictation 50:10 different 21:12 34:17 42:19 dinner 55:14 direct 9:18 10:20 11:18 50:15 direction 34:18 director 12:19 directs 11:16 disciplinary 40:1 discussion 46:9 56:19 dispatch 16:14,17,19 dispatcher 17:8,13 Disposal 1:8 7:18,22 9:3 10:10,17 16:9 18:4 28:13,20 58:15 dispose 15:2 Disposing 15:1 district 1:1,2 25:3 58:19,20 Division 1:3 58:21 document 38:6,11,13 38:15,22 39:1 41:1,5 41:10 42:5,10 documents 39:14,18 57:2 doing 14:23 16:11 done 23:21 24:22 54:23 55:2 56:18 Dora's 44:16 48:20 DOT 45:8 Douglas 1:18 2:4,4,16 4:10,13 10:5 34:16 34:23 down 11:1 18:17 20:4 50:12 driver 45:6 51:22 52:9 drivers 16:20 21:9 22:3 46:5 drug 30:22 31:18 32:10 32:18 33:19 39:7 40:14 41:4,22 42:8,8 42:18 45:2 47:12 50:20 51:3,11,18,19 drugs 32:4 42:11 due 51:2 duly 4:6 58:9 during 24:12 duties 8:1 13:21 14:7 15:15 16:5,7,16 20:6 25:10 Dykes 2:8 10:3 11:8 27:16 34:13,20 43:13 43:15 54:19 55:4 57:9 d/b/a 1:8 58:16	E each 4:15 earlier 11:14 15:14 19:21 38:7 49:22 56:15 earnings 20:11,12 Eastern 1:3 58:21 EEOC 57:3 eight 24:17 25:2 either 3:14,20 12:11 40:6 eliminated 26:5 28:9 Elmore 22:2 58:3 employed 7:15 28:12 employee 10:12,18 11:16 12:11 39:22 40:1 employees 8:17 9:18 31:4 46:4,7 51:1 employee's 33:18 employment 8:21 38:14,16 39:2 44:12 45:4 51:7 54:21 56:23 end 25:17 enforcement 7:13 enough 5:12,13 enter 8:15 entire 26:15 entry 40:19 Equal 56:23 Esq 2:4,8 Estridge 53:12 even 17:2 ever 4:19 12:10 29:11 29:12,23 30:12,18 33:17 55:17,19,22 56:6,9 every 51:4 everything 22:21 25:6 36:15 37:10 43:12 52:2 evidence 3:13 exactly 39:12 50:12 examination 2:15 4:9 59:3 example 26:22 exchange 29:4 excuse 6:7 24:16 Exhibit 38:9 39:15,16 40:3,16,23 41:12,21 42:4,17 43:4 44:15 46:10,19 47:7,17 48:8 49:2,21 52:18 Exhibits 40:12 43:5 experience 44:23 Expiration 59:13 explain 43:16	explained 13:7 56:15 explanation 49:20 50:22 52:6,11,15 eyes 33:17 e-mail 26:18,20,22 27:1 27:6 29:11,12 e-mailed 29:7 e-mails 27:1 29:4,14,20 30:1 F fail 5:6 failed 39:6 failure 51:18 fair 5:11,13 14:14 familiar 10:14 family 53:6,17,20,22 far 8:5 9:13 13:13,14 15:5 21:13 22:9 24:21 25:5 29:20 31:7,11 43:11 44:7 45:3 48:18 50:22 fax 20:10,13 37:2 38:21 38:22 Federal 2:10 3:5 feel 10:23 11:20 44:2 45:6 Fifth 2:9 file 33:21,23 34:4 35:14 41:6 42:21 filed 37:14,21 41:9 43:1 56:22 files 8:10,14 filing 3:18,22 fill 31:10,13 37:2 44:11 50:23 52:1 filled 21:1 22:17 51:9 Filling 51:6 final 39:21 fine 27:18 34:18 37:10 fire 19:18 fired 35:2 51:2 first 4:6 16:13,13 17:9 30:4 34:5 35:1 37:20 38:20 43:23 49:5 58:9 five 7:6 21:22 24:15 26:10 follows 4:8 foregoing 59:1 form 3:11 22:18 34:7 formality 3:9 former 29:20 forms 50:23 four 5:19 6:4 17:19 23:16 24:16 friends 54:3,5,11 55:12 from 10:9 11:1 12:10 19:10 29:14 33:18	34:8 48:23 49:8,8 52:6 55:17 full 29:3 further 3:16,23 57:11 59:6 Futral 34:9 35:19 G garbage 14:22 general 28:6,7,10,15 getting 31:4 45:3 give 10:7 11:4 27:12 37:17 43:15 53:9 56:17 given 4:19 12:18 20:9 52:3 giving 50:9 Glenn 2:12 9:13 12:22 go 40:9 44:3,8 goes 6:12 48:18 going 4:21 5:4 10:16 34:17,21 37:17 38:6 38:10 39:13 40:22 41:20 42:2 graduate 19:10 guess 34:15 35:13 36:10 37:16 41:16 54:7 Guest 2:12 9:13 12:22 guys 29:7 H Haley 1:15 3:6 58:4 59:13 hand 10:16 47:18 handbook 10:9,18 11:12 handle 8:2,5,20 9:1 14:9 17:6 25:8 handles 21:10 handwriting 47:4,15 48:1,3 50:1 handwritten 46:17 happen 25:15 happened 22:10,21 happy 5:7 harassment 9:7,10 12:12 13:14 55:20,23 56:4,7,10 Harper 54:17 Hatchett 54:7 haul 16:18 hauling 14:20 having 4:6 45:1 head 11:11 17:10 30:7 hear 28:5 heard 28:1 30:14,16,18 hearing 20:19,21,23 22:6,8,13 23:3,4,6,8	23:10,12,18,21 24:12 30:15,16 37:8 Heath 53:15 help 14:11,13,15 her 6:9 10:7 17:16 23:15 hereto 3:21 4:1 high 19:9,10,12,13,16 him 22:15,22 24:4 30:6 30:8,9,12,14,16,17 35:4 46:2 50:14,17 52:8 hire 46:1 hired 32:14 hiring 45:15 46:3 home 6:1,12 18:10 hours 24:21 HR 8:6,19 Huh 55:1 Huh-uh 18:14 36:2 human 8:2,8 10:20 11:18,21 12:19 Hunter 54:18 husband 6:4 53:14 husband's 6:18 53:20 HVAC 25:8 I idea 30:10 42:23 44:17 48:5 49:11 identify 39:17 41:1 illegal 32:3,10 42:11 Inc 41:14 incorrectly 49:3 INDEX 2:15 indicates 41:21 individual 10:2 20:18 51:4 information 8:16 13:17 13:22 20:8 22:12,15 22:17 44:10 input 13:22 15:17 45:18 inquired 52:12 inquiry 36:5 instances 56:3 Institute 6:17 interested 59:8 interview 45:21 introduced 3:19 involved 32:20 46:3 involvement 32:23 iron 44:16,21 48:21 issue 14:12 J J 2:8 James 2:4 Jennifer 54:6
---	--	--	---	--

<p>Jerry 6:19 53:15 Jim 4:13 job 17:18 18:2 55:17 Jr 2:4 6:19 Julie 54:17 June 24:19 25:17 jury 54:21 just 5:1,7 8:5 11:4 12:5 13:3,17 14:1 16:14 20:10 21:1 23:4,7 28:6 34:4 35:14 37:10,13 38:17,21 44:9 45:12 47:9,18 50:9 54:3 55:5 56:13 56:17,20</p> <hr/> <p>K</p> <p>keep 8:14 29:14,17 34:21 Kelly 54:6 kept 25:12 kids 6:4,5 Kim 54:17 kin 59:6 kind 25:4 44:17 knew 12:6,7 27:6 37:16 37:20 43:1 50:19 51:17 know 4:15 5:7 10:1,1 12:4 20:19 21:8,21 22:20 23:14 25:4 27:16,17,18,22 28:3 28:6,16,18 29:1,2,3 32:16 34:10,11 37:14 39:12 41:5,8 44:8,21 45:6 46:15,22 47:1,3 48:15,17 49:9,12,18 50:21 52:1,2,4,5,8 53:22 54:4,11 knowledge 34:5 35:1 36:8 37:11 56:21 Kramer 17:17</p> <hr/> <p>L</p> <p>landfill 15:3,6 Large 1:17 3:8 58:6 59:15 last 24:15 26:10 later 27:14 law 1:18 2:9 7:13 lawsuit 4:14 7:19 34:14 36:11 37:14,21 38:2 lay 33:17 layman's 14:21 least 51:20 leave 17:21 25:4 Lee 53:3,11 left 18:1 24:16,18 25:1 25:15 28:3,5</p>	<p>left-hand 46:11 48:8 let 5:7 10:8 like 5:1 8:22 17:6 25:4 30:10 34:17 35:6,12 45:6 46:6,23 47:23 49:2 55:15 list 9:9 54:22 live 5:14,20,22 6:1,11 28:22 53:3,13,20 54:5 lived 5:18 28:19 lives 6:12 LLC 1:8,9 58:16,17 loan 18:8,20 loans 18:9,10,10,10 located 18:11 40:16 location 24:2 28:17 locations 21:12 logo 47:19 long 5:18,22 7:5,13,14 7:21 17:18 18:20 24:21 longer 28:15 55:11 look 34:2,4 43:2 44:3,8 49:10 looking 47:3 looks 30:10 34:16 46:23 47:23 49:2,9 lot 8:5 55:3 Louis 41:14 Lucas 49:18</p> <hr/> <p>M</p> <p>Macon 7:10 22:1 53:4 53:8,13 54:6 made 3:11 39:1 40:3,12 55:19 make 5:5 11:16 13:3,23 15:17 35:21 36:5 39:10 making 13:13 21:9 management 10:21 11:19 24:22 manager 8:2 10:21 11:18,22 16:16 17:11 21:6,7 25:3 28:7,8,10 28:15 33:10,11,12,13 43:8 44:11 manner 3:20 59:8 many 21:12,20 35:11 56:12 March 27:13,13 Marion 6:13,14,17 marked 38:7,8 39:15 40:23 42:3 marriage 53:7,18 master 6:21 match 19:3 Matched 19:3</p>	<p>matter 32:8,9,10,11 58:11 may 3:6,12,13,19 14:16 59:9 ma'am 4:11 5:14 McKee 53:11,11 McNeal 1:18 2:4 mean 8:9 10:4 12:6 14:21 15:16 16:17 22:19 24:18 37:1 43:1 45:21 46:1 48:17 54:22 55:5 Mechanical 6:22 25:8 meet 23:3 30:4 member 11:19 members 53:6,17 mentioned 40:4,6 met 4:17 30:6,8,9 Middle 1:2 58:20 might 17:2 23:10 46:15 47:21 51:19 54:4,10 54:11 55:14 Military 6:17 minute 56:17 miss 17:5 misunderstood 12:9 Montgomery 7:1 15:13 22:2 months 17:20 more 55:3 56:20 MRO 41:14 47:9,19</p> <hr/> <p>N</p> <p>name 4:11,13 6:9,18 17:16 23:15 34:4 46:10 49:3,9 names 10:2 53:9 nature 25:6,9 need 3:11 20:3 44:2 51:19 53:23 54:11 needed 50:21 52:10,13 negative 18:14 36:2 42:12 negatively 45:3 neither 59:6 never 29:7 30:5,6,8,9 new 28:6,7,10 46:4 next 36:8,13 37:11 nine 19:6 nobody 38:4 nods 11:11 17:10 None 53:20 North 2:9 Notasulga 5:21 7:11 19:13 notation 39:1,10 40:3 40:13 note 42:10 noted 39:5</p>	<p>notes 24:4,7 nothing 4:8 23:7 24:11 45:23,23 58:10 noticed 56:4 number 11:4 38:9 44:1 47:2,17 48:7,9 58:22</p> <hr/> <p>O</p> <p>oath 4:22 objections 3:10,10 obviously 8:13 38:1 occasion 50:23 off 33:1,4 43:3 44:9 offered 3:13 office 8:2 17:11 20:15 24:14,22 26:11,13 27:3 50:8 officer 7:8 16:16 offices 1:18 9:23 Off-the-Record 46:9 56:19 Oh 45:9,13 okay 5:8,9 12:8 21:23 23:5 27:19 28:18 34:20 45:20 55:7 old 18:15 older 6:5,7 one 2:10 6:6,8 12:1 15:4,6,12,12 18:16 18:16 29:7 38:17 39:5 51:9,14 56:13 56:20 only 31:6 33:20 43:4 46:5 Opelika 15:12 18:12,13 operations 21:6,7 24:19 33:10,11 43:8 44:11 opinion 45:12,23 Opportunity 56:23 ordinary 31:16 other 3:10,14,20 4:15 16:16 19:19 30:18 31:12 40:19 44:21 51:9,14 52:2 53:17 54:15 others 54:14 out 16:19 19:3 21:1,16 21:19 22:17 24:20 25:22 31:10,13,16 37:2 44:11 49:6 50:23 51:6,9,20 52:1 59:4 outside 14:5 over 21:9,21 22:3 24:19 26:10 37:3 50:6 51:23 own 7:2</p>	<p>P</p> <p>packaging 33:4 page 10:22 11:1,3 38:17,18,19,20 pages 38:16 59:1 pants 19:4 paper 35:4 37:1,2 39:11 43:7 papers 36:14 paperwork 21:2 22:16 23:7 35:15 52:3 part 15:14 47:9 parties 3:3,17 4:1 59:4 59:7 party 3:14,20 pass 13:17 passed 24:11 34:3 pay 8:12 payroll 8:3,6,15 13:20 13:22 people 9:9,21,22 12:1 14:4 20:14 45:15 53:3 54:3,4 55:7,10 perhaps 44:3 period 25:16 periodically 29:4 permanent 46:1 person 23:14 46:15 Personal 18:10 personnel 8:10,14 33:21 41:6 Phillips 1:16 3:6 58:4 59:13 phone 14:10 23:4 picked 21:10 Picking 14:22 place 2:10 9:17 54:20 Plaintiff 1:6 2:3 58:13 please 4:11 plumber 6:21 point 33:22 42:16 44:2 pointing 43:13 police 7:8,11 policy 9:4,6,17,18 10:4 11:13 12:5 32:2,6 39:7 40:14 50:20 51:3,12,19 52:10 portion 11:12 46:11,17 46:18 48:8 position 24:23 26:5,7 28:8,16 31:18 32:8,9 positive 17:22 19:23 25:21 31:22 32:3 41:22 45:2 48:10 51:18 Poucher 28:11 practice 34:2 preemployment 43:22</p>
---	---	--	---	--

<p>preparing 41:10 PRESENT 2:11 preview 14:1 previously 39:14 40:22 42:3 prior 4:17 18:4 22:13 probably 17:19 30:14 problem 14:12 procedure 3:5 30:23 proceeding 36:17 process 13:7 14:4 processor 18:8,20 19:3 provide 15:20 provided 3:15,21 10:6 Provino's 18:15 pull 16:19 Pullum 46:12,14 purports 10:16 purpose 3:14 pursuant 1:14 3:4 put 20:10,12 33:20,22 p.m 1:20</p> <hr/> <p>Q</p> <p>question 3:11 5:8,10,11 9:14 51:16 54:1 56:20 questions 3:10 4:21 5:4 57:8 quibble 13:2 quit 18:1 25:18 26:4 quite 9:14</p> <hr/> <p>R</p> <p>racial 12:11 56:3,7 Randolph 53:4 Randomly 31:21 read 12:4,7 43:20 46:21 47:10,19 49:21 reading 11:1 59:4 reason 26:4 51:16 54:9 reasoning 43:11 recall 20:16 37:11 49:22 51:13,14,15 57:5,6 receive 9:10 10:8 12:2 12:15 34:8 received 12:10 34:7 35:3 36:14 56:6,9 recognize 38:11 42:5 47:15 48:3 recollection 49:13 Record 41:21 43:20 49:22 refaxed 49:7 reference 20:9 22:10 37:4 43:21 44:12 45:5,8 52:1 regard 8:19,23 9:7</p>	<p>13:20 14:7 20:6 32:3 36:16 45:15 regarding 12:11 13:13 29:12,21 30:1 35:21 39:2 regardless 3:21 register 9:21 reinstated 26:6 relate 8:12 relates 11:13 relationship 53:10 relax 37:10 rely 41:10 remember 21:18,18 27:11 30:13 35:11 Renee 54:17 Rental 19:1 rephrase 5:7 report 40:1 56:1 reported 58:7 Reporter 1:16 3:7 58:5 59:14 REPORTER'S 58:1 reports 11:16 12:15 represent 4:14 representing 3:3,17 reps 14:10 requested 52:6 reserved 3:12 residential 15:23 16:1 17:2 resigned 25:19,20 resource 11:21 12:19 resources 8:3,8 10:21 11:18 response 17:22 18:14 19:23 25:21 31:22 36:2 48:10 responsibilities 45:14 responsibility 13:12 results 33:6,18 41:4 42:8,11,19 43:2,21 59:8 retested 44:1 review 22:12,15 right 5:3,19 7:23 8:11 11:5 13:14 21:7 26:3 28:7 29:10 34:23 35:16,18 41:20 42:2 43:12 45:11 46:13 47:19 50:11,13 55:9 57:7 right-hand 46:18 Riverside 5:17 Road 29:2 Robert 1:5 4:14 19:22 30:4 58:12 role 20:23 22:8 30:22 room 12:23</p>	<p>routed 15:18 routes 21:10 Rules 3:5 ruling 3:12 rumors 28:5 Russell 21:4 23:1 28:18 29:5 33:16 43:9 47:21</p> <hr/> <p>S</p> <p>safety 33:12,13 SAITH 57:11 sales 8:6 15:15,17 same 3:22 12:14 13:4 16:11 24:1,14 25:6 26:11,15 59:5 samples 33:1,4 saw 40:11 saying 25:12 43:19 50:3 says 10:20 46:12 49:8 sbeasley@advanced... 26:23 school 6:12,16 19:6,8,9 19:10,12,13,17 schooling 19:16 scratch 49:5 screen 33:19 41:22 42:8,9 45:2 47:12 screening 30:22 second 16:15 38:18,19 security 44:1 47:2 see 29:23 34:2 seek 25:22 selecting 32:20 send 13:23 31:11 41:15 sending 44:14 sends 32:17 sense 5:5 35:14 sent 20:14 33:1,4 42:17 service 8:3,6 14:8,9,10 19:1 46:5,7 serviced 15:19 Services 1:8 7:18,22 10:17 58:15 set 59:4 several 15:5 sexual 9:7 12:11 shakes 30:7 sheet 31:9,11 38:21 sheets 31:13 Sheriff's 7:10 Sherry 1:14 3:4 4:5,12 58:8 shirts 19:4 shopping 18:17,19 short 25:16 shoulder 50:6 show 38:6 39:13 40:22</p>	<p>42:2 showed 42:19 side 17:4 signature 4:2 significance 29:17 signing 59:4 similar 51:1 sir 4:16,18,20,23 5:3 7:16,20 13:11 20:18 23:20,23 27:5 29:2,8 29:10,13 30:11,13,20 31:2 35:20,23 44:19 sit 29:18 situation 36:9 37:12 38:2 six 7:23 16:7,11 Sizzlin 18:18 Smith 2:8 social 43:23 47:1 some 4:21 35:9 someone 45:22 something 17:6 18:19 27:14 31:15 40:4,6 47:18 51:20 52:13 55:15 sons 53:15 sorry 6:15 9:15 11:6 12:6,9 13:6 20:2 25:14 27:3 30:9 32:1 36:22 37:9 43:14 51:6 sort 25:22 speak 4:7 20:3 23:9 48:20 49:15 58:9 speaking 11:14 39:13 specimens 32:17 41:16 spelled 49:3 spoke 49:14 spoken 52:23 St 41:14 stamp 10:19 11:4 standing 50:6 started 16:14 Starting 39:20 starts 49:10 state 1:17 3:8 4:11 58:2 58:6 59:14 STATES 1:1 stations 15:8 Statute 3:15,21 stepmother 53:13 steps 56:14 stepsister 53:11 still 27:8 28:12 stipulated 3:2,16,23 stipulation 1:15 3:1 stop 27:10 Street 5:21 stuff 8:5 47:6</p>	<p>Subsidiaries 10:18 Sue 53:12 54:18 Suite 2:5,10 SUNFLOWER 1:8 58:16 supervisor 11:18 22:23 24:20 31:8,10 33:12 51:23 supervisors 10:20 supposed 45:7 sure 13:3,23 15:17 21:9 39:12 49:16,17 sworn 4:7 58:9</p> <hr/> <p>T</p> <p>take 14:10 20:3 43:22 47:4 50:1 taken 1:14 3:4,6 56:14 talk 30:17 talked 30:12 38:1,4 talking 9:16 Tallapoosa 22:1 53:4,8 53:14 54:7 Tallassee 5:15 15:6 21:16 26:14 28:23 29:1 telephone 23:21 tell 12:17 21:14 30:21 30:21 31:10 36:21 45:7 54:16 telling 31:3,7 ten 5:23 terminated 26:2 32:7 34:12 35:5,7,10 36:6 50:19 52:9 55:17 terminating 39:21 termination 20:9 22:11 22:16 34:7 35:4 36:11,12 39:11 44:9 51:10 52:4 terms 14:21 test 41:4 42:11 43:23 51:18 tested 31:5,8,19 32:18 42:14 testified 4:8 15:14 22:9 36:19 37:6 41:17 testify 21:2 23:18 testifying 24:5,8,9 testimony 13:4 23:10 testing 32:3 43:22 44:9 tests 42:18 43:18,23 44:3 their 9:21 33:20 53:9,9 themselves 44:4 thereof 59:8 thing 12:14 13:5 16:11 36:13 things 8:21 25:5,9 39:5</p>
--	--	--	--	--

think 18:18 27:2,13 34:21 45:5 54:14,19 57:4,7 thinking 27:4 though 9:14 29:18 three 11:3,3 18:22 through 10:19 Thursday 1:19 58:23 time 3:12,12 7:14 18:3 21:6 26:9,16 28:11 31:6 35:9 42:16 50:7 51:22 times 5:6 13:8 56:12 Tobias 2:8 today 4:17 12:23 29:19 38:8 together 23:8 40:8,9 57:2 told 32:14 36:15,23 37:17 43:11,18 50:3 52:18 Tonya 54:17 touch 9:12 transcript 59:2 transfer 15:7 trial 3:19 tried 44:10 54:10 true 59:2 truth 4:7,7,8 58:9,10 58:10 try 51:23 Tuskegee 5:21 two 11:3 35:6 39:14 43:18,22 44:3 two-page 38:15 type 18:9 19:8 55:19,22 56:10 types 12:2 typically 31:13	26:15 32:21 55:10 usually 12:18 13:5 29:16 33:10 U.S 58:19 V vehicle 18:10 ventilation 25:9 verification 38:14,16 44:12 51:6,22 verifications 8:21 Vernon 54:18 victim 55:22 violation 39:6 40:13 50:20 51:2,11 52:9 voice 30:19 volunteer 19:18 vs 1:7 58:14 W waived 3:19 4:3 59:5 waiving 3:22 want 10:6 13:2,3 39:12 Washington 26:14 wasn't 9:14 27:2 Waste 1:9 14:20 58:17 way 25:12 32:20 46:4 51:14 weeks 24:16,17 25:2 42:18 Weldon 29:2 Well 15:5 16:13,23 21:14 22:20 23:5 28:16 44:2 51:8,22 52:8 54:16 went 18:1 24:19,19 25:1 44:9 were 11:14 17:8 18:20 19:8 20:6 24:1 25:10 29:23 30:1 32:14,14 35:14 37:16,17 39:14 40:8 42:14,16,18 43:6 44:14 50:10 54:9,23 weren't 26:2 54:23 55:2 Western 18:18 we're 45:7 whatsoever 45:18 while 24:4,7,8 28:19 29:9 Whitfield 54:18 whole 4:7 58:10 witness 4:1,2,6 11:11 17:10 30:7 43:14,17 54:10 59:3 word 36:1 words 13:2 work 6:23 7:2,17 8:11	18:5 24:20 27:8 55:5 55:8,10,11 worked 7:21 19:20 21:16,19 33:14 working 18:4 26:9 27:10 28:19 29:9 44:23 workplace 55:20,23 works 7:4 17:13 wouldn't 27:2 write 12:18 24:4,7 47:6 47:13 48:13 50:4,16 50:21 51:19 52:10,19 written 46:12 47:7,18 48:7 50:14 52:13 wrong 13:15 43:23 wrote 43:19 48:5 wrought 44:16,21 48:21 Y yeah 45:13 55:4 year 16:13,15 17:9 19:14 27:12 years 5:19,23 7:6,14,23 16:8,12 18:22 19:6 24:15 26:10 29:15 yesterday 37:19,20 y'all 15:2 23:3 Z Zach 28:11 # #151 59:13 0 07 25:17 27:13 I 10 1:19 40:23 41:21 47:17 58:23 10141 5:21 11 42:4 46:10,19 47:7 48:9 12 7:14 125 10:19 13 39:15,20 40:7,12,20 43:5 1303 26:14 14 39:16,23 40:7,12,20 43:5 151 1:16 3:7 58:5 1710 1:18 2:5 18 6:7 1819 2:9 19 6:5,6,8 38:9 40:4,17 41:12 42:17 43:4 44:15 49:2,21 52:18	2 2nd 59:9 2:15 1:20 2007 27:20 2008 1:20 58:23 59:9 26 48:9 3 3/9/07 43:21 3:07-CV-846-WKW 1:7 58:22 35203 2:10 36830 2:6 4 4 2:16 420-88-2743 46:23 5 522 5:17 58 59:1 9 9/30/08 59:13 90 19:15 900 2:10 91 10:19 97 11:8,9,10 98 11:6,8,9,10	
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DEPOSITION OF GLENN GUEST

April 10 and 11, 2008

Pages 1 through 107

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ROBERT CANNON,
Plaintiff,

Vs. CIVIL ACTION NO.
3:07-CV-846-WKW

ADVANCED DISPOSAL SERVICES
ALABAMA, LLC, d/b/a SUNFLOWER
WASTE, LLC,
Defendant.

DEPOSITION OF GLENN GUEST, taken pursuant to
stipulation and agreement before Haley A. Phillips,
Certified Court Reporter, ACCR # 151, and
Commissioner for the State of Alabama at Large, in
the Law Offices of McNeal & Douglas, 1710 Catherine
Court, Auburn, Alabama, on Thursday, April 10,
2008, commencing at approximately 2:15 p.m. and on
Friday, April 11, 2008 commencing at approximately
10:00 a.m.

Page 2

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EXAMINATION INDEX

BY MR. DOUGLAS 4
BY MR. DYKES 105

PLAINTIFF'S EXHIBIT INDEX

1 Composite of documents 39
2 Composite of documents contained in Mr. Cannon's personnel file 57

3 Advanced Disposal Services, Inc., and
Subsidiaries Employee Handbook 78

Page 3

STIPULATION

It is hereby stipulated and agreed by and
between counsel representing the parties that the
deposition of GLENN GUEST is taken pursuant to the
Federal Rules of Civil Procedure and that said
deposition may be taken before Haley A. Phillips,
Certified Court Reporter, ACCR # 151, and
Commissioner for the State of Alabama at Large,
without the formality of a commission, that
objections to questions other than objections as to
the form of the question need not be made at this
time but may be reserved for a ruling at such time
as the said deposition may be offered in evidence
or used for any other purpose by either party
provided for by the Statute.

It is further stipulated and agreed by and
between counsel representing the parties in this
case that the filing of said deposition is hereby
waived and may be introduced at the trial of this
case or used in any other manner by either party
hereto provided for by the Statute regardless of
the waiving of the filing of the same.

It is further stipulated and agreed by and

Page 4

between the parties hereto and the witness that the
signature of the witness to this deposition is
hereby not waived.

GLENN GUEST

The witness, after having first been duly
sworn to speak the truth, the whole truth and
nothing but the truth testified as follows:

EXAMINATION

BY MR. DOUGLAS:

Q. State your name, please, sir.

A. Glenn Guest.

Q. Glenn, where are you from?

A. Athens, Georgia.

Q. Where do you live now?

A. Jacksonville, Florida.

Q. How long have you lived there?

A. 18 years.

Q. Have you ever lived in Alabama?

A. No.

Q. Ever had a job in Alabama?

A. No.

Q. Do you have any family in any of the

Page 5

1 counties I mentioned earlier?
 2 A. I don't think so.
 3 Q. Any friends in any of those counties you
 4 know about?
 5 A. No.
 6 Q. One of the things that would be important
 7 is to make sure that I finish my question
 8 and I'll be sure to make sure you finish
 9 your answer so it will read better on the
 10 transcript, okay?
 11 A. Okay.
 12 Q. I assume you've probably given a deposition
 13 before.
 14 A. Yes, sir, I have.
 15 Q. Are you currently employed?
 16 A. Yes, sir, I am.
 17 Q. Who are you employed with?
 18 A. Advanced Disposal Services.
 19 Q. What is Advanced Disposal Services?
 20 A. It's a garbage company.
 21 Q. How long have you been with Advanced
 22 Disposal Services?
 23 A. Two years.

Page 6

1 Q. Does -- Is Advanced Disposal Services the
 2 subsidiary of any other corporation or
 3 business entity?
 4 A. I'll have to -- I'll have to -- I guess
 5 I'll have to explain it. I work for
 6 Advanced Disposal Services, Incorporated.
 7 We are the parent company of all of our
 8 subsidiaries that pick up and collect
 9 garbage.
 10 Q. Do you have any subsidiaries in Alabama?
 11 A. Yes, sir, we do.
 12 Q. Do you have a lot of them?
 13 A. Three or four.
 14 Q. Can you tell me who they are?
 15 A. Advanced Disposal Services, Montgomery,
 16 formally known as Sunflower Waste in
 17 Tallassee, Alabama; Advanced Disposal
 18 Services, Gulf Coast, LLC, in Mobile,
 19 Alabama, and Urrutia, Incorporated, doing
 20 business as Arrow Disposal in Birmingham,
 21 Alabama.
 22 Q. Who is the president of Advanced Disposal
 23 Services, Inc.?

Page 7

1 A. Wally Hall.
 2 Q. How many owners of the company, if you
 3 know?
 4 A. I don't know exactly, because most of our
 5 company is owned by an equity group known
 6 as AIG Highstar. There are employees of
 7 the company who have stock ownership. I
 8 don't know exactly how many or how -- what
 9 percentage they have.
 10 Q. Is Advanced Disposal Services publicly
 11 traded?
 12 A. No, sir, it's not.
 13 Q. It's private?
 14 A. Yes, sir, it is.
 15 Q. Do you own any stock in the company?
 16 A. I don't have any stock. I own -- I have
 17 promises of stock grants in the future.
 18 Q. And the company's headquarters is in
 19 Jacksonville, Florida?
 20 A. Yes, sir.
 21 Q. How far did you go in school?
 22 A. I have a master's degree.
 23 Q. From where?

Page 8

1 A. Jacksonville University.
 2 Q. In what?
 3 A. Executive business.
 4 Q. And before that where -- what was your last
 5 degree in?
 6 A. Bachelor of business administration.
 7 Q. Where?
 8 A. University of Georgia.
 9 Q. In what?
 10 A. Business.
 11 Q. Business.
 12 And, obviously, you graduated high
 13 school?
 14 A. Yes, sir.
 15 Q. Where and when?
 16 A. Clarke Central High School, Athens,
 17 Georgia, 1977.
 18 Q. Do you have any other degrees you haven't
 19 told me about?
 20 A. Yes, sir, I do.
 21 Q. Tell me about those.
 22 A. I have an associate of arts from Oxford
 23 College of Emory University.

Page 9

1 Q. When did you get that?
 2 A. 1979.
 3 Q. Anything else?
 4 A. That's it.
 5 Q. Do you have any professional licenses?
 6 A. I do not have any licenses. I do have
 7 certifications.
 8 Q. What are those?
 9 A. It's senior human resource management.
 10 Q. And where did you get that certification
 11 from?
 12 A. From the Society of Human Resources.
 13 Q. Where is that?
 14 A. Alexandria, Virginia.
 15 Q. Is that a class you took?
 16 A. Yes, it was.
 17 Q. Was it just one class?
 18 A. No, sir, it was not.
 19 Q. So it was a --
 20 A. It was a series of classes on different
 21 aspects of human resources.
 22 Q. How many times have you testified as a
 23 corporate representative of Advanced

Page 10

1 Disposal Services, Inc., or any of its
 2 subsidiaries?
 3 A. In a deposition or any?
 4 Q. Yeah, in a deposition.
 5 A. I don't -- I think zero. I don't recall if
 6 I did.
 7 Q. So today is the first time?
 8 A. For Advanced Disposal, yes, sir.
 9 Q. Or any of its subsidiaries?
 10 A. Or any of its subsidiaries.
 11 Q. Or any of its sister corporations?
 12 A. Correct.
 13 Q. How long have you been in your present
 14 employment?
 15 A. Two years.
 16 Q. You told me that. I apologize.
 17 Before that?
 18 A. Arnold Transportation Services.
 19 Q. That's who you worked for?
 20 A. Yes.
 21 Q. In what capacity?
 22 A. Director of human resources.
 23 Q. Is that company in any way related to

Page 11

1 Advanced Disposal Services?
 2 A. None whatsoever.
 3 Q. And how long were you in that job?
 4 A. Seven years.
 5 Q. Before that?
 6 A. Norrell Corporation. About -- I think it
 7 was maybe a year and a half.
 8 Q. Norrell?
 9 A. Correct. Two Rs, two Ls.
 10 Q. What was your position with that company?
 11 A. Site manager of human resources.
 12 Q. Before that?
 13 A. Yellow Freight Systems.
 14 Q. What does Yellow Freight Systems do?
 15 A. They pick up and deliver less than
 16 truckload shipments.
 17 Q. How long were you with that company?
 18 A. Ten years.
 19 We've got a ways to go before you get
 20 to '82.
 21 Q. What did you do with that company?
 22 A. I had several positions. I started off as
 23 an operation supervisor. Operations

Page 12

1 manager, human resources coordinator, then
 2 weight and research coordinator.
 3 Q. Have you ever driven a truck?
 4 A. No, sir, I have not.
 5 Q. Do you know how to?
 6 A. No, sir, I don't.
 7 Q. Me neither.
 8 Before that?
 9 A. ABF Freight Systems.
 10 Q. What does ABF Freight Systems do?
 11 A. They pick up and deliver less than
 12 truckload packages.
 13 Q. How long were you with them?
 14 A. I believe it was around three years.
 15 Q. So we've covered your employment for the
 16 last 20 years or so?
 17 A. That would be correct.
 18 Q. Is it fair to say that your primary area of
 19 expertise is HR?
 20 A. Today, yes.
 21 Q. As we sit here today?
 22 A. Correct.
 23 Q. Do you know Robert Cannon?

Page 13

1 A. No, sir, I don't.
 2 Q. Just met him today for the first time?
 3 A. That's correct.
 4 Q. Have you personally ever been involved in
 5 litigation? Have you ever sued anybody or
 6 has anybody ever sued you?
 7 A. No, sir.
 8 Q. You've never been named as a defendant for
 9 any of the companies that you've worked
 10 for?
 11 A. No, sir.
 12 Q. Before I leave this part of the deposition,
 13 you mentioned that Advanced Disposal
 14 Services, Incorporated, was owned by a
 15 private something or another.
 16 A. Equity firm, yes.
 17 Q. What's the name of that firm?
 18 A. AIG Highstar.
 19 Q. And what do they do?
 20 A. They buy companies and take profits from
 21 them.
 22 Q. How many persons are on the board of
 23 directors of Advanced Disposal Services,

Page 14

1 Incorporated?
 2 A. I'm not positive.
 3 Q. How many different states do the operations
 4 operate in?
 5 A. Right now I believe four.
 6 Q. Can you tell me what they are?
 7 A. Yeah. Mississippi, Alabama, Georgia and
 8 Florida.
 9 Q. What is the approximate amount of gross
 10 revenue per year that the company
 11 generates?
 12 MR. DYKES: Object to the form.
 13 A. I have absolutely no idea.
 14 Q. These earlier positions we talked about
 15 with these other companies, have you ever
 16 been terminated by any of them?
 17 A. No, sir.
 18 Q. So your leaving was always your decision?
 19 A. All but -- Well, the ones we talked about,
 20 yes.
 21 Q. Have you ever been terminated from any job
 22 for allegedly failing a drug test?
 23 A. Never.

Page 15

1 Q. Are you drug tested with the company?
 2 A. Yes, sir, I am.
 3 Q. Advanced Disposal Services?
 4 A. Yes, sir.
 5 Q. You're randomly tested?
 6 A. Yes, sir.
 7 Q. Does that apply to everybody who works for
 8 the company?
 9 A. Yes, sir, it does.
 10 Q. How does Advanced Disposal Services make
 11 its money? In other words, what are they
 12 paid to do?
 13 A. They have basically four different
 14 divisions: Residential, picking up garbage
 15 from your house and then getting paid for
 16 it; picking up from businesses like yours
 17 in a dumpster or a construction site, which
 18 is called C & D in open-top containers and
 19 disposing of it; and then we also operate
 20 landfills.
 21 Q. Well, like in Auburn, the City has trash
 22 trucks that come around. Does ADS work in
 23 any cities?

Page 16

1 A. Yes, sir, I believe it does.
 2 Q. Are they hired by cities from time to time?
 3 A. Yes, sir.
 4 Q. You're familiar, I take it, with the
 5 company's policies regarding
 6 discrimination?
 7 A. Yes, sir.
 8 Q. Did you help to formulate any of those
 9 policies as they exist today?
 10 A. No, sir. They were already in place when I
 11 took my position.
 12 Q. And they've not changed in any material way
 13 since you took your position?
 14 A. Not on discrimination, no, sir.
 15 Q. And what are your duties, if any, with
 16 regard to discrimination or enforcing the
 17 anti-discrimination policy for the company?
 18 A. It's my job to -- in this aspect to take --
 19 intake any complaints that may arise,
 20 investigate and either resolve or -- in one
 21 way or another those complaints.
 22 Q. How do you investigate?
 23 A. There's several different ways. I mean, I

Page 17

1 look at paperwork that's generated
 2 within -- in whatever manner it comes to
 3 me, whether it be from the employer, from
 4 the supervisors, and I also interview
 5 employees and supervisors.
 6 Q. Regarding the company's anti-drug policy,
 7 are you familiar with that?
 8 A. Yes, sir, I am.
 9 Q. Have you played any part in formulating
 10 that policy?
 11 A. No, sir, I haven't.
 12 Q. It was in existence at the time you arrived
 13 at the company?
 14 A. That's correct.
 15 Q. And it's not changed in any material way?
 16 A. No, sir, not to my knowledge.
 17 Q. And the penalty for testing positive for
 18 illegal drugs is what?
 19 A. Termination.
 20 Q. For anybody?
 21 A. Correct.
 22 Q. Particularly a driver or just anybody?
 23 A. Anybody.

Page 18

1 Q. No exceptions?
 2 A. None.
 3 Q. How about with regard to alcohol? Does the
 4 company have a policy with regard to the
 5 use of alcohol?
 6 A. Yes. Yes, sir, they do.
 7 Q. What is it?
 8 A. It's the same for drugs.
 9 Q. You can't test positive at all?
 10 A. Correct.
 11 Q. What if you're -- Even if you're a clerk in
 12 an office?
 13 A. Correct.
 14 Q. You can't drink at all?
 15 A. No.
 16 Q. And that's been the policy since you've
 17 been there?
 18 A. As far as I know, yes.
 19 Q. So people that work for your company have
 20 to have their enjoyment without beer or
 21 wine or any kind of spirit?
 22 A. Correct. I'd like to change that from time
 23 to time, but I don't think --

Page 19

1 Q. Well, I noticed that Georgia watch, and I
 2 was wondering how you handled the whole
 3 tailgate thing.
 4 A. Luckily that's a Saturday.
 5 Q. How are the results of drug screens
 6 specifically reported?
 7 A. I'm not --
 8 Q. Well, that's a poor question.
 9 Walk me through the process of the
 10 whole drug screening procedure of
 11 employees.
 12 A. One, it's not my area as far as exactly how
 13 it's done, but I am familiar with the
 14 process.
 15 Q. Okay.
 16 A. All applicants or employees are subject to
 17 preemployment drug testing. They sign a
 18 release. They're sent to the drug testing
 19 facility. A specimen is collected in
 20 accordance with DOT regulations. It's sent
 21 to an independent laboratory for analysis.
 22 Those results are -- come back either --
 23 one of three ways; positive, negative or

Page 20

1 diluted, can't test it.
 2 Q. What does diluted mean, if you know?
 3 A. Either -- There's two ways to dilute a
 4 specimen. It's either you drink a ton of
 5 water on your way down to the clinic and,
 6 therefore, there's more water that has
 7 passed through your system and it dilutes
 8 the urine, or you've poured water into the
 9 urine sample.
 10 Q. What happens to employees who have a
 11 diluted sample?
 12 A. It has to be retested.
 13 Q. So they're not terminated for that?
 14 A. Not right then, no.
 15 Q. Now, the company which handled Mr. Cannon's
 16 drug test, MRO St. Louis or something like
 17 that -- St. Louis MRO.
 18 A. Right.
 19 Q. Are you familiar with that company?
 20 A. I've heard of them, yes.
 21 Q. When did the company begin using them?
 22 A. I couldn't tell you.
 23 Q. I sent some interrogatories to your lawyer,

Page 21

1 which I believe that you verified; is that
 2 correct?
 3 A. Yes, sir.
 4 Q. I didn't understand one of the answers, so
 5 I just wanted to ask. I asked how long
 6 that the company had used St. Louis MRO,
 7 and your response was, defendant used
 8 St. Louis MRO, Inc., to test specimens of
 9 its employees for the presence of drugs
 10 from January 2007 through March 2007. That
 11 was your answer.
 12 A. Yes.
 13 Q. My question is, was it only that period of
 14 time or were you giving me what you thought
 15 was a relevant period of time?
 16 A. No. That, I can't -- That question was
 17 posed to our director of safety, and that's
 18 the answer he gave me. And it was my
 19 understanding that it was not just relevant
 20 to that period of time. That was when --
 21 that was the only time period we were
 22 contracted with them.
 23 Q. So three months?

Page 22

1 A. That could be correct, yes. That's what --
 2 Q. According to the answer?
 3 A. According to the answer that I got from our
 4 director of safety.
 5 Q. What is that gentleman's or lady's name?
 6 A. His name is Tom Davis.
 7 Q. He is the director of safety?
 8 A. That is correct.
 9 Q. Where does he work?
 10 A. Jacksonville, Florida.
 11 Q. Now, is that director of safety over all of
 12 the branches of the company?
 13 A. Yes, sir; he is.
 14 Q. Is there just one director of safety?
 15 A. Yes, sir.
 16 Q. And he's it?
 17 A. He's it.
 18 Q. Do you have any idea why the company
 19 stopped using St. Louis MRO in March of
 20 '07?
 21 A. No, sir.
 22 Q. Can you tell me who would know?
 23 A. Tom Davis.

Page 23

1 Q. Okay. Does the company conduct background
 2 checks on its prospective truckdrivers to
 3 see if they have previously been terminated
 4 for use of drugs or alcohol or anything
 5 like that?
 6 A. Yes, sir, they're supposed to.
 7 Q. What's that mean?
 8 A. That's -- That's the policy.
 9 Q. Does the company have trouble with its
 10 people implementing that part of the
 11 policy?
 12 A. It has from time to time.
 13 Q. What is the company policy with regard to
 14 hiring truckdrivers who have previously
 15 been terminated for violating a drug
 16 policy?
 17 A. To the best of my knowledge, they have to
 18 have entered a drug treatment program and
 19 successfully passed it before we're allowed
 20 by DOT law to accept them as a driver.
 21 Q. Have you personally reprimanded anyone at
 22 the company for failing to do proper
 23 background for applicants?

Page 24

1 A. Yes, sir, I have.
 2 Q. Have you done that for any of the personnel
 3 who worked where Mr. Cannon worked at that
 4 facility?
 5 A. I don't recall.
 6 Q. Are you aware of any alleged allegations of
 7 discrimination at the facility where
 8 Mr. Cannon worked other than his lawsuit?
 9 MR. DYKES: I'm going to object.
 10 I mean, I think anything race
 11 related, retaliation related
 12 is -- I mean, all this -- I'm
 13 going to object to anything
 14 outside of the type
 15 allegations we've got here.
 16 MR. DOUGLAS: All right.
 17 THE WITNESS: Answer?
 18 MR. DYKES: I mean, you can --
 19 MR. DOUGLAS: Are you telling him
 20 to only --
 21 A. What was your question?
 22 MR. DOUGLAS: Actually, my
 23 question was with regard to

Page 25

1 race discrimination.
2 MR. DYKES: Was it? Okay.
3 MR. DOUGLAS: Yeah. As far as
4 that goes.
5 Q. Are you aware of any allegations of race
6 discrimination at the facility Mr. Cannon
7 worked with other than his complaint?
8 A. No, sir, I'm not.
9 Q. Does your company policy with regard to
10 anti-discrimination apply equally to race
11 and gender?
12 A. Yes, it does.
13 Q. So your implementation of it or the
14 triggering of the policy would be the same
15 no matter what type of discrimination we're
16 talking about?
17 A. Yes, sir. That would also go for religion,
18 national origin.
19 Q. Sure. All the Title VII categories.
20 A. Absolutely.
21 Q. I understand.
22 Have you yourself done any
23 investigation of any type of discrimination

Page 26

1 at the facility that Mr. Cannon worked?
2 A. Which type of discrimination?
3 Q. Any type.
4 A. Yes, sir, I have.
5 Q. What type?
6 A. Well, let's see. Sexual -- Sexual
7 harassment. I guess that's probably not
8 discrimination, but ...
9 Q. Was that before or after he worked there?
10 A. I don't recall. It was in -- It was within
11 six months either way. I don't recall when
12 it exactly was.
13 Q. Was anybody terminated?
14 A. No.
15 Q. Do you know the racial makeup of the
16 drivers who worked at the -- Can I call it
17 the Tallassee facility? Is that correct,
18 or is it something else?
19 A. No. That's correct.
20 Q. Can I call it that?
21 A. Sure.
22 Q. The Tallassee facility, do you know the
23 racial makeup of the drivers from January

Page 27

1 22, 2007 through March 9th or 10th, 2007?
2 A. No.
3 Q. No idea?
4 A. None.
5 Q. Would you have those records?
6 A. Yes, sir, I would. I think so. I'm not
7 positive my assistant could dig it out, but
8 we do keep -- we do keep records.
9 Q. Okay. Can you get that information
10 regarding the racial makeup of the drivers
11 to your attorney?
12 A. If the system will allow it, yes.
13 Q. Are you saying that you have a computer
14 system that's poor or you don't know how to
15 operate it?
16 A. It's poor.
17 Q. If the system will allow it, will you get
18 the information to your lawyer for me?
19 A. Absolutely.
20 Q. I appreciate it.
21 MR. DYKES: Just so I'm clear, you
22 just want the drivers -- the
23 drivers at the Tallassee

Page 28

1 facility?
2 MR. DOUGLAS: Right.
3 MR. DYKES: Okay. I just wanted
4 to make sure.
5 MR. DOUGLAS: As of this point,
6 that's all I'm asking for.
7 Q. Do you know a Mr. Coke Conway?
8 A. No, sir.
9 Q. Do you know if he ever worked for the
10 company?
11 A. Yes, sir, I do.
12 Q. All right. Do you know when he worked for
13 the company?
14 A. No, sir, I don't.
15 Q. Is he no longer working for the company?
16 A. To my knowledge, he is not.
17 Q. Do you know what led to the end of his
18 employment?
19 A. I believe so.
20 Q. Can you tell me what it is?
21 A. I believe he resigned.
22 Q. Do you know why he resigned?
23 A. No, sir, I don't.

Page 29

- 1 Q. Was -- Would this have been within the last
2 year, if you know?
3 A. I believe so.
4 Q. Do you know what his duties were with the
5 company?
6 A. No, sir, I don't.
7 Q. Do you know if he was a driver or a
8 helper or -- Does the term "helper" mean
9 anything to you?
10 A. Yes, sir, it does.
11 Q. What is the helper?
12 A. It's the person on a residential truck who
13 stands on the back and actually takes your
14 household garbage and throws it into the
15 truck.
16 Q. What are the requirements for being a
17 helper with the company, or are there any?
18 A. Well, you have to be able to lift --
19 Q. Sure.
20 A. -- repetitively.
21 Q. Other than physical requirements, are there
22 any?
23 A. No, sir.

Page 30

- 1 Q. How about for drivers?
2 A. Yes.
3 Q. What are their requirements that are
4 different than the helpers?
5 A. The driver has to have a CDL, commercial
6 driver's license.
7 Q. Anything else?
8 A. Has to have a medical card -- DOT medical
9 card.
10 Q. Anything else?
11 A. I don't think so.
12 Q. Did Mr. Con -- Was Mr. Conway ever a driver
13 for your company?
14 A. I'm not positive.
15 Q. Can you find that out for me?
16 A. Sure.
17 Q. Can you get that information to your
18 lawyer?
19 A. Absolutely.
20 Q. Would your system differentiate by date
21 when he was a helper and when he was a
22 driver if that is the case?
23 A. It could if it was input, yes.

Page 31

- 1 Q. Okay. And you'll get that information to
2 your attorney for me if you have it?
3 A. Yes.
4 Q. All right. At the Tallassee facility from
5 January 22, 2007 through March 9, 2007, who
6 was in charge of that facility? Who ran
7 the day-to-day operations, if you know?
8 A. That's two different questions.
9 Q. Okay. Can you answer them both and tell me
10 which one you're answering?
11 A. Yes, sir. Van Forester was the district
12 manager, and he was over the entire
13 operation. That's drivers, landfill,
14 office. And Russell --
15 Q. Davis?
16 A. -- Davis was the operations manager over
17 the driving portion. And Trey Allen was
18 the general manager of the landfill.
19 Q. Is this one landfill we're talking about?
20 A. Yes, sir, it is.
21 Q. What does the general manager of the
22 landfill do?
23 A. That's a good question. I believe -- I

Page 32

- 1 mean, he's over the day-to-day operations
2 of the landfill. He's charged with making
3 sure that the operations are running
4 smoothly, safely and that we're not
5 violating any environmental laws.
6 Q. And the landfills just -- forgive my
7 ignorance -- that's just a place where
8 people kind of -- or where you guys come
9 and put the garbage; is that right?
10 A. That's correct.
11 Q. Now, Van Forester, what was his title
12 again?
13 A. District manager.
14 Q. What was his district?
15 A. Tallassee.
16 Q. Just Tallassee?
17 A. Well, I mean, it included the counties that
18 Ms. Beasley had talked about previously,
19 which also has two transfer stations in it
20 as well.
21 Q. Okay. So would Mr. Forester have been
22 above Mr. Davis and Mr. Allen?
23 A. Yes, sir.

Page 33

1 Q. And Mr. Davis and Allen -- Mr. Davis and
 2 Mr. Allen, would they be kind of horizontal
 3 in the chain of command or would one be
 4 over the other?
 5 A. One wouldn't be over the other, but
 6 Mr. Allen is -- was a title ahead, so to
 7 speak, than Mr. Davis.
 8 Q. And are all these gentlemen Caucasian?
 9 A. I believe so.
 10 Q. At the Tallassee facility, who would have
 11 been below, if anybody, Mr. Davis?
 12 A. Danny Futral would have been, and I don't
 13 recall the other individual's name.
 14 Q. And what was Danny Futral's position?
 15 A. I believe he was residential supervisor.
 16 Q. And I take it that would be someone who
 17 supervised the pickup of residential
 18 garbage?
 19 A. Yes, sir.
 20 Q. And is Mr. Futral a Caucasian?
 21 A. Yes, sir, I believe he is.
 22 Q. And you don't recall the other person's
 23 name?

Page 34

1 A. No, sir.
 2 Q. Was that a man or a woman?
 3 A. I believe it was a man.
 4 Q. Do you know his race?
 5 A. No, I don't.
 6 Q. What drugs are tested for by the company
 7 when their employees are required to submit
 8 to random drug screens?
 9 A. I don't know all of them.
 10 Q. On Defendant's Exhibit 11, which was the
 11 second drug screen of Mr. Cannon,
 12 amphetamines, marijuana, opiates, cocaine
 13 and -- I can't pronounce the last one --
 14 phencyclidine were tested for. Does that
 15 ring a bell at all?
 16 A. Yes, sir.
 17 Q. Are those the only illegal drugs that are
 18 tested for, to your knowledge?
 19 A. I'm not positive.
 20 Q. Do you know if it's changed since the
 21 company stopped using St. Louis MRO?
 22 A. I don't know.
 23 Q. Don't know one way or the other?

Page 35

1 A. No, sir.
 2 Q. Have you encountered a situation where an
 3 employee has tested positive for drugs and
 4 they claim it was a prescription drug of
 5 some sort?
 6 A. Absolutely.
 7 Q. How does that sort itself out?
 8 A. To my understanding, it is a call between
 9 the MRO and the employee. When the
 10 specimen is taken, the employee is asked
 11 are you taking any prescription medication
 12 and then -- yes or no. They list the
 13 prescription if there is one. When the
 14 sample goes to the MRO for testing, if
 15 there's a prescription listed, then it's my
 16 understanding the MRO pays special
 17 attention to see if it could be one based
 18 on their knowledge that would trigger a
 19 positive test for one of the drugs they're
 20 testing for.
 21 Q. Okay. And for the Record, MRO stands
 22 for ...
 23 A. Medical Review Officer.

Page 36

1 Q. At the Tallassee facility, do you know
 2 which doctor or medical provider the
 3 employees were instructed to go to to
 4 submit their samples for drug testing?
 5 A. No, sir, I don't.
 6 Q. Who would make that decision?
 7 A. Tom Davis.
 8 Q. Who would have made it in January of 2007?
 9 A. Tom Davis.
 10 Q. We had spoken briefly earlier about the
 11 company's requirement that truck driving
 12 applicants be subjected to a background
 13 check. Do you recall that?
 14 A. Yes, sir, I do.
 15 Q. What were the company's procedures as far
 16 as how that background check was to be
 17 conducted? In other words, where would
 18 they look -- where were the people to look
 19 who --
 20 A. At that time?
 21 Q. Yes, at that time.
 22 A. I'm not positive. I know parts of it, but
 23 I don't know the entire process.

Page 37

1 Q. Tell me what you do know.
 2 A. Their name would be submitted to a third
 3 party vendor who would check their criminal
 4 background and may or may not -- I don't
 5 know if they went as far as calling
 6 previous employers or not.
 7 Q. You don't know if that was required back
 8 then?
 9 A. I don't, no.
 10 Q. Would someone with a criminal background
 11 that -- You were here for Mr. Cannon's
 12 deposition?
 13 A. Yes, sir, I was.
 14 Q. You heard his testimony?
 15 A. Yes, sir, I did.
 16 Q. Would someone with his criminal background
 17 have been eligible to be hired?
 18 A. Yes, sir, they would.
 19 Q. If the background check had revealed the
 20 positive drug test in the files of Waste
 21 Management, would he have been eligible to
 22 be hired?
 23 A. I don't believe so.

Page 38

1 Q. Not without completing some sort of course;
 2 right?
 3 A. That's correct. Then he would be eligible.
 4 Q. Have you spoken to anyone at the company as
 5 to whether or not a background check was
 6 done with regard to Mr. Cannon?
 7 A. I don't recall.
 8 Q. You don't know if you spoke to anybody or
 9 not? Does that mean you might have?
 10 A. I could have, yes.
 11 Q. If you did, do you have any idea what was
 12 said?
 13 A. No, sir.
 14 Q. Where are the personnel files of the
 15 employees kept who worked at the Tallassee
 16 facility?
 17 A. In Tallassee.
 18 Q. So is it fair to call Jacksonville
 19 corporate?
 20 A. That's correct.
 21 Q. Would any personnel files be kept at
 22 corporate of the employees?
 23 A. In Tallassee or any ...

Page 39

1 Q. In Tallassee. The Tallassee employees.
 2 A. No, sir.
 3 Q. Was Mr. Cannon's file ever sent to
 4 corporate?
 5 A. Yes, it was.
 6 Q. When?
 7 A. When I got the first notice of an EEOC
 8 charge.
 9 Q. Would the entire file at that point have
 10 been sent to corporate?
 11 A. I believe so.
 12 Q. And would have remained there through
 13 today, I take it?
 14 A. Well, I'm sorry. A copy of the file was
 15 sent to corporate.
 16 Q. So there would have been a copy at
 17 Tallassee and a copy at corporate?
 18 A. That's correct.
 19 (Plaintiff's Exhibit 1 was marked
 20 for identification.)
 21 Q. I'm going to mark as Plaintiff's Exhibit
 22 Number 1 a group of documents that your
 23 lawyer was kind enough to provide to me,

Page 40

1 which are Bates stamped pages one through
 2 32. I'm going to ask you if you would take
 3 a look at Plaintiff's Exhibit Number 1 and
 4 tell me if you recognize it.
 5 (Off-the-Record discussion.)
 6 A. What was the question again, please?
 7 Q. Do you recognize those group of documents?
 8 A. Yes.
 9 Q. And you've seen them before today?
 10 A. Yes, sir.
 11 Q. If you could flip to Bates stamped page
 12 nine.
 13 A. Is that at the bottom right?
 14 Q. Yes.
 15 MR. DYKES: Yes.
 16 A. Okay.
 17 Q. That should be the charge of
 18 discrimination.
 19 A. Yes, sir.
 20 Q. When did you first lay eyes on this
 21 document as best you can recall?
 22 A. Within a few days of it being received in
 23 Tallassee.

Page 41

1 Q. Did you have any knowledge regarding
2 Mr. Cannon prior to receiving page nine of
3 Plaintiff's Exhibit Number 1?
4 A. Yes, sir, I did.
5 Q. What did you know before that?
6 A. He had tested positive for cocaine.
7 Q. How did you know that?
8 A. I found it.
9 Q. Found it where?
10 A. I need some liberty to --
11 Q. Sure.
12 A. -- give an explanation.
13 Q. Sure. Go ahead.
14 A. I was doing some research on positive drug
15 tests, and I was given a list of all
16 employees at Advanced Disposal who had
17 been -- tested positive for drugs or
18 alcohol. And in my field if I'm going to
19 verify something, I make sure that it's
20 followed through.
21 I personally took every social security
22 number, matched it to the name and typed it
23 into my system to be sure every employee

Page 42

1 had been terminated until I got to
2 Mr. Cannon's and he was still showing
3 active. And at that time I took it to Tom
4 Davis and informed him we had an active
5 employee who tested positive for drugs.
6 Q. What led you to this analysis in the first
7 place. Why were you doing what you were
8 doing?
9 A. It had to do with a separate lawsuit or
10 allegation. I can't remember if it was a
11 lawsuit or an allegation.
12 Q. And what did the lawsuit involve?
13 A. Discrimination because they had failed a
14 drug test.
15 Q. Were they saying that not everybody was
16 treated the same who failed the drug test?
17 A. Yes.
18 Q. Was it a race discrimination case?
19 A. No.
20 Q. Gender?
21 A. No. I guess not -- maybe not a
22 discrimination. It was, I was terminated
23 for drugs; not everybody who tests positive

Page 43

1 has been terminated for drugs; you know, I
2 don't think I've been treated fairly.
3 Q. Was there a lawsuit filed?
4 A. I don't think so. I'm not positive, but I
5 don't think there was. I don't have that
6 many lawsuits, so I know most of them but
7 some I've forgotten but -- when I first got
8 to the company.
9 Q. Where did the employee work who was making
10 this complaint?
11 A. I can't recall.
12 Q. You can't recall any of the four states,
13 what state it might have been?
14 A. I could make a guess. I mean --
15 Q. Well, I don't want you to guess.
16 A. Well, then I'm telling you that I know it
17 was not Alabama. And we didn't -- I don't
18 think we had any employees in Mississippi
19 at the time, so it had to be Georgia or
20 Florida.
21 Q. Was an EEOC complaint filed in this case?
22 A. No, sir, don't believe so.
23 Q. Will you provide that person's name to your

Page 44

1 lawyer?
2 A. I don't have that person's name.
3 Q. You don't even know who it is?
4 A. No.
5 Q. No way of finding out?
6 A. I don't think so. I'll look but I don't
7 think so.
8 Q. If you can will you provide it to your
9 lawyer?
10 A. Yes, sir.
11 Q. He may object to giving it to me, but will
12 you provide it to him?
13 A. Absolutely.
14 MR. DYKES: Yeah. He can provide
15 it and I'll decide if I ...
16 Q. Okay. So do you recall when this was? I
17 bet it was in February of 2007, huh?
18 A. I imagine it probably was.
19 Q. All right. And so did you come across
20 anybody else who was still active who had
21 shown to have tested positive for drugs?
22 A. None.
23 Q. Just Mr. Cannon?

Page 45

1 A. Just Mr. Cannon.
 2 Q. So you informed Mr. Davis?
 3 A. Correct.
 4 Q. What did he say?
 5 A. I don't know that I can say in front of
 6 this young lady.
 7 Q. Well ...
 8 A. He was not happy.
 9 Q. This young lady will be happy to take it
 10 down. What did he say?
 11 A. I can't believe this shit or something to
 12 that effect.
 13 Q. Okay. And was he expressing exasperation
 14 that he was still working for the company?
 15 A. Absolutely.
 16 Q. Okay. And what was your response to his
 17 retort?
 18 A. You need to find -- make -- My first thing
 19 was we need to make sure this individual is
 20 really not working and just hasn't been
 21 terminated out of the system because
 22 somebody didn't key him out of the system.
 23 Q. Okay.

Page 46

1 A. And once I found that out, Mr. Davis took
 2 matters into his own hands to make sure he
 3 was terminated.
 4 Q. How did he do that?
 5 A. I believe he called Tallassee and informed
 6 them they needed to terminate Mr. Cannon.
 7 Q. Would all this have happened prior to the
 8 drug screen which is referenced on
 9 Defendant's Exhibit 11?
 10 A. I couldn't recall.
 11 Q. Okay. Well, just so we're all on the same
 12 page. There were two drug screens;
 13 correct?
 14 A. Yes, sir.
 15 Q. Defendant's Exhibit 10, which contains the
 16 name Robert and some last name that we
 17 don't know; is that correct? Number 10 I'm
 18 talking about.
 19 A. Yeah.
 20 Q. Is that correct?
 21 A. That's correct.
 22 Q. Indicating a positive test for cocaine?
 23 A. Correct.

Page 47

1 Q. And then we have Defendant's Exhibit 11,
 2 which was taken a couple of weeks later
 3 which is negative?
 4 A. That's correct.
 5 Q. For cocaine?
 6 A. Correct.
 7 Q. Defendant's Exhibit 10 is negative for
 8 everything other than cocaine?
 9 A. That's correct.
 10 Q. So do you know what gave rise to Mr. Cannon
 11 taking the drug screen evidenced by
 12 Defendant's Exhibit 11?
 13 A. No, sir.
 14 Q. No idea?
 15 A. I have an idea, but I don't have any proof.
 16 Q. Well, what's your idea?
 17 A. My idea is Mr. Cannon was positive for
 18 cocaine. Mr. Davis needed an employee
 19 to -- that knew the routes to service the
 20 Phenix City account, which they had just
 21 got which was a big deal for Tallassee, and
 22 gave him a drug test later hoping he'd be
 23 clean.

Page 48

1 Q. But he was clean; right?
 2 A. Not in the first case he wasn't. He was
 3 hoping the -- by the time -- if nobody had
 4 noticed already -- he gets him a drug test
 5 and then says, well, I -- ignoring the
 6 first one and showing that he did do a
 7 preemployment, because both of them are
 8 marked preemployment, saying I -- you know,
 9 in his file here -- in case a safety person
 10 looked, here is a negative drug test.
 11 Q. Mr. Russell Davis?
 12 A. That's my opinion.
 13 Q. That's your opinion?
 14 A. Yes.
 15 Q. Did you talk to Mr. Davis about this?
 16 A. No, sir, I didn't.
 17 Q. You didn't ask him?
 18 A. No, sir, I didn't.
 19 Q. Why do you think that?
 20 A. I don't recall who told me, but somebody
 21 other than Mr. Davis -- because I didn't
 22 talk to Mr. Davis about it -- gave the
 23 explanation back to me. It could have been

Page 49

1 Mr. Davis. It could have been
2 Mr. Forester.
3 Q. Mr. Tom Davis --
4 A. Correct.
5 Q. -- could have told you --
6 A. Told me that's why it happened. Because I
7 caught it, brought it up and said, you
8 know, you need to fix this.
9 Q. Or Mr. Forester?
10 A. Yes.
11 Q. One of those two you believe?
12 A. I believe it was Mr. Davis. I'm not
13 positive. But if I had to pick between the
14 two of them -- That's the only two people I
15 would have consulted after the fact to get
16 to the bottom of it, would have been
17 Mr. Davis or Mr. Forester. Mr. Davis works
18 in my office. It would have been easier to
19 talk to him by just leaning out the
20 doorway.
21 Q. So Defendant's Exhibit 11, which is the
22 second test, was actually not marked
23 correctly, because it wasn't a

Page 50

1 preemployment test; correct?
2 A. Well, it didn't fit any of the other
3 categories. But I think -- My opinion is
4 Mr. Davis was trying to make it look like
5 it was a preemployment test.
6 Q. Mr. Russell Davis?
7 A. Yes.
8 Q. Who's no longer with the company?
9 A. That's correct.
10 Q. Do you know why he's no longer with the
11 company?
12 A. Not directly I don't, but I do have my
13 opinion.
14 Q. What is it?
15 A. That he was failing in a lot of his duties,
16 this included.
17 Q. Do you know where he is?
18 A. No, sir, I don't.
19 Q. Did y'all send him a final check?
20 A. I'm sure they did.
21 Q. Did y'all send him a W-2?
22 A. Yes, sir, I'm sure.
23 Q. Would you get that address to your lawyer

Page 51

1 for us?
2 A. Absolutely.
3 Q. Can we take a little break?
4 A. Absolutely.
5 (Off-the-Record discussion.)
6 (Deposition adjourned at this
7 time.)
8 (Deposition resumed on Friday,
9 April 11, 2008 at approximately
10 10:00 a.m. after taking the
11 deposition of Mr. Danny Futral.)
12 Q. (Examination continued by Mr. Douglas):
13 We're resuming your deposition. And you
14 understand you're still under oath;
15 correct?
16 A. Yes, sir.
17 Q. If you would flip to Bates stamped page 18
18 of Plaintiff's Exhibit Number 1. Can you
19 identify that document?
20 A. It's one of the pages in our company
21 handbook.
22 Q. And what is -- What does this page deal
23 with?

Page 52

1 A. Employment policies.
2 Q. And, specifically, this page deals with
3 your -- the company's harassment policy?
4 A. Yes, sir. And the EEO policy.
5 Q. And what do those initials mean?
6 A. Equal opportunity employer.
7 Q. Did you have anything to do with the
8 selection of page 18 from Plaintiff's
9 Exhibit 1 to be included in the EEOC
10 filing?
11 A. I'm not sure what you mean by that.
12 MR. DYKES: I mean, I'm going
13 to -- Can we go off the Record
14 for a second?
15 MR. DOUGLAS: Sure.
16 (Off-the-Record discussion.)
17 MR. DOUGLAS: We're back on.
18 A. No.
19 Q. If we could flip to Bates stamped page
20 Number 19 of Plaintiff's Exhibit 1. For
21 the Record, pages 19 through 22 are what?
22 A. They are the application for employment for
23 Mr. Robert Cannon.

Page 53

1 Q. Had you seen his application prior to the
2 file being sent to you at corporate, which
3 you testified about yesterday?
4 A. No, sir, I haven't.
5 Q. So when the file was sent to you at
6 corporate would have been the first time
7 you laid eyes on his application?
8 A. Yes, sir.
9 Q. There were some questions for Mr. Cannon
10 yesterday regarding his failure to answer a
11 question on the application, have you ever
12 been convicted of a felony. Do you recall
13 that testimony?
14 A. Yes, sir, I do.
15 Q. Would it be the company's position that
16 Mr. Cannon lied on this application for
17 leaving that blank, or do you accept his
18 explanation?
19 MR. DYKES: Object to the form.
20 You can answer.
21 THE WITNESS: Yeah, I know.
22 A. I would say he didn't lie because he didn't
23 put anything on there. He might have been

Page 54

1 deceptive, but he didn't lie.
2 Q. Would you expect your hiring personnel to
3 inquire as to why that question was not
4 answered?
5 A. Yes, I would.
6 Q. If you'll flip to page 28 of Plaintiff's
7 Exhibit 1. And when I say pages, I mean
8 the Bates stamped page every time. If I
9 don't say Bates stamped, that's what I'm
10 referring to.
11 Are you there?
12 A. Yes, sir.
13 Q. This is the positive drug test that
14 contains Mr. Cannon's social security
15 number but not his last name; is that
16 correct?
17 A. Yes, sir, it is.
18 Q. Do you know anything about the handwriting
19 portion just to the right of the St. Louis
20 MRO logo?
21 A. I'm -- I don't understand the question.
22 Q. Did you write that?
23 A. No, sir.

Page 55

1 Q. You see that something has been
2 handwritten?
3 A. Yes, sir.
4 Q. Can you read it?
5 A. Yes, sir. It looks like Russell.
6 Q. Do you know if that's Russell's
7 handwriting?
8 A. No, sir, I don't.
9 Q. Do you know whose handwriting it is?
10 A. No, sir, I don't.
11 Q. Do you have any idea why it would have been
12 written on that form?
13 A. No, sir, I don't.
14 Q. If you'll flip to the next page, 29. You
15 were here for Mr. Futral's testimony
16 regarding this form, which is Defendant's
17 Exhibit 13 to Mr. Cannon's deposition?
18 A. Yes, sir, I was.
19 Q. Do you agree with his testimony with regard
20 to what the purpose of this form is?
21 A. Yes, sir, I do.
22 Q. And is he correct in his testimony with
23 regard to the difference between

Page 56

1 Defendant's Exhibit 13 and Defendant's
2 Exhibit 14? And do you need to look at it?
3 A. Yes, sir. And by the difference, you're
4 saying that 14 is a disciplinary form and
5 13 is a termination form?
6 Q. That's what I recall Mr. Futral's testimony
7 to be.
8 A. Yes, sir, I agree with that.
9 Q. And he's correct about that?
10 A. Yes, sir.
11 Q. Would it be company policy to have the
12 employee who is being terminated sign
13 Defendant's Exhibit Number 13?
14 A. Yes, sir.
15 Q. And I take it it would be company policy to
16 acknowledge an employee's refusal to sign
17 the disciplinary form?
18 A. Yes, sir.
19 Q. And do you know the gentleman who signed
20 Defendant's Exhibit 14?
21 A. No, sir, I don't.
22 Q. Do you know -- I guess you don't know if he
23 works with the company if you don't know?

Page 57

1 A. No, sir, I don't.
 2 Q. I'm going to hand you a document, which
 3 I'll mark as Plaintiff's Exhibit Number 2,
 4 which is a group of documents which are
 5 Bates stamped pages 33 through 90.
 6 (Plaintiff's Exhibit 2 was marked
 7 for identification.)
 8 Q. If you would take a moment and tell me if
 9 you can identify those documents for me,
 10 please, sir.
 11 A. Okay. I'm done.
 12 Q. Can you identify those documents?
 13 A. Yes, sir.
 14 Q. What is it? What are they?
 15 A. They should -- They're documents that
 16 should have been contained in Mr. Cannon's
 17 employee file as well as his DOT file.
 18 Q. Those are two separate files?
 19 A. Yes, sir.
 20 Q. Does your company write anything on the
 21 outside of the file folders?
 22 A. Their name.
 23 Q. Anything else?

Page 58

1 A. Maybe their location, but that would be --
 2 that should be all that's on them.
 3 Q. Anything other than biographical
 4 information?
 5 A. No, sir.
 6 Q. Was his application contained in
 7 Plaintiff's Exhibit Number 2?
 8 A. I don't recall seeing it.
 9 Q. I didn't see it.
 10 A. I think I saw it in Plaintiff's Exhibit 1.
 11 Q. It was in Plaintiff's Exhibit 1.
 12 A. Right.
 13 Q. I don't want to imply anything wrong.
 14 A. No.
 15 MR. DYKES: And I think -- I think
 16 what I -- Because I probably
 17 took it out to attach to the
 18 statement of position.
 19 It's -- I mean, it was in the
 20 personnel file --
 21 MR. DOUGLAS: Okay.
 22 MR. DYKES: -- when I got it. And
 23 if it's not in here now, it's

Page 59

1 because I took it out to do my
 2 statement of position and it
 3 was put in that file.
 4 Q. Let me ask you, sir. Did you take anything
 5 out or anybody that worked for you take
 6 anything out of the personnel file?
 7 A. Absolutely not.
 8 Q. So you would have given the whole file to
 9 your attorney?
 10 A. Yes, sir.
 11 MR. DOUGLAS: And we've been given
 12 the whole file in some form?
 13 MR. DYKES: Yeah. Yeah.
 14 MR. DOUGLAS: Okay.
 15 MR. DYKES: Yeah.
 16 Q. If you would flip to Bates stamped page
 17 number 45 which is contained in Plaintiff's
 18 Exhibit 2.
 19 A. Okay.
 20 Q. Can you identify that document?
 21 A. It appears to be a wage verification from
 22 the Opelika Housing Authority.
 23 Q. Why --

Page 60

1 A. Concerning Mr. Cannon.
 2 Q. Why is this form generated, if you know?
 3 A. I have no idea.
 4 Q. You don't know if it has anything to do
 5 with Section 8 Housing or anything like
 6 that?
 7 A. No, sir, I don't know what that is.
 8 Q. If you would flip to page 51 of Plaintiff's
 9 Exhibit Number 2. This appears to be a fax
 10 from Rebecca Brooner to Sherry Beasley; is
 11 that correct?
 12 A. No, sir.
 13 MR. DOUGLAS: No.
 14 Q. Okay. What does it appear to be?
 15 A. It appears to be a fax that originally had
 16 come from the Opelika Housing Authority and
 17 instead of using a new cover sheet just
 18 crossed it out and sent it back to the
 19 Opelika Housing Authority.
 20 Q. Got you.
 21 And the Housing Authority is -- I'm
 22 sorry. Ms. Barns at the Housing Authority
 23 is requesting another form. Is that

Page 61

1 what -- Do you see that in the comment
2 section?
3 A. Yes, sir, I do.
4 Q. A job termination form; correct?
5 A. Yes, sir.
6 Q. And if you flip to page 52, that is a job
7 termination verification; is that correct?
8 A. Yes, sir.
9 Q. And at the bottom the firm name is
10 Sunflower Waste, LLC, and signed by
11 Rebecca -- Brooner, is it?
12 A. Brooner.
13 Q. Do you know her?
14 A. Yes, sir, I do.
15 Q. Who is she?
16 A. She was the controller for the Tallassee
17 office.
18 Q. Okay. And Ms. Brooner indicated that
19 Mr. Cannon was terminated on March 9, 2007;
20 correct?
21 A. Yes, sir, that's what it says.
22 Q. If you would flip to page 54.
23 A. Okay.

Page 62

1 Q. There is another term -- This is a separate
2 termination verification sent to the
3 Housing Authority regarding Mr. Cannon; is
4 that correct?
5 A. Yes, sir, it is.
6 Q. Now, the date on page 54 -- And that one is
7 signed by Ms. Beasley March 13, 2007;
8 correct?
9 A. Yes, sir, it is.
10 Q. Now, on page 54 there's an indication that
11 Mr. Cannon was terminated due to violation
12 of drug and alcohol policy; is that
13 correct?
14 A. Yes, sir, that's what it says.
15 Q. But on page 52 when Ms. Brooner -- when
16 Ms. -- excuse me -- when Ms. Brooner sent
17 the termination verification, she left off
18 the reason under additional remarks.
19 A. That's correct.
20 Q. Which one of -- Is Ms. Beasley's actions in
21 putting the reason down there appropriate
22 under company policy?
23 A. Yes, sir, they are.

Page 63

1 Q. Is Ms. Brooner's decision not to put the
2 reason appropriate under company policy?
3 A. Yes, sir, it is.
4 Q. So that's within the discretion of who is
5 sending the form?
6 A. Also at the -- if they actually knew the
7 reason.
8 Q. Who's they?
9 A. Or if Ms. Brooner actually knew the
10 reason. Maybe that's -- It would be
11 speculating. But --
12 Q. Right.
13 A. -- not everybody is privy to the
14 information. Some people can see dates of
15 employment but do not have access to the
16 files to know why they were terminated.
17 Q. To your knowledge, is there any particular
18 reason why it was included on one and not
19 included on the other?
20 A. No, sir.
21 Q. Think it had anything to do with the fact
22 that Mr. Cannon was pursuing a claim?
23 MR. DYKES: Object to the form.

Page 64

1 A. No, sir.
2 Q. You haven't spoken to either one of them
3 about it, I take it?
4 A. No.
5 Q. On page 56, can you identify that document
6 in Plaintiff's Exhibit 2?
7 A. It's a notice of termination form from our
8 company.
9 Q. Signed by Mr. Futral?
10 A. Yes, sir, appears that way.
11 Q. And appears that he signed it on March 9,
12 2007; is that correct?
13 A. Yes.
14 Q. What would be the point or the reason of
15 having this notice of termination form as
16 well as Defendant's Exhibit 13?
17 A. Well, this one is giving instructions
18 concerning issues that happen after your
19 termination concerning insurance.
20 Mr. Futral would have limited knowledge of
21 COBRA insurance policies or W-2s or things
22 of that nature. So it's directing
23 Mr. Cannon to contact Sherry Beasley and

Page 65

1 not Mr. Futral concerning those issues.
 2 Q. So the notice of termination on page 56 of
 3 Plaintiff's Exhibit 2 would have been given
 4 to Mr. Cannon?
 5 A. Would appear that way, yes.
 6 Q. Should have been given to Mr. Cannon?
 7 A. Yes.
 8 Q. And page 56 of Plaintiff's Exhibit 2 does
 9 not call for Mr. Cannon's signature
 10 anywhere on the form?
 11 A. No, sir.
 12 Q. Well, can you tell me why -- and if you
 13 don't know, that's fine -- Because
 14 Ms. Beasley also signed Defendant's Exhibit
 15 13. Why not just put the information
 16 regarding insurance on one form? Why two
 17 forms?
 18 A. I have no idea.
 19 MR. DOUGLAS: Off the Record.
 20 (Off-the-Record discussion.)
 21 Q. I apologize if I asked you this question
 22 yesterday, but you heard the testimony
 23 where Ms. Beasley indicated that she had

Page 66

1 sent verification of employment to Ann
 2 Dora's in Montgomery, Alabama; is that
 3 correct?
 4 A. Yes. Yes, it is.
 5 Q. And you heard her testimony with regard to
 6 putting that Mr. Cannon was terminated for
 7 violation of drug and alcohol policy;
 8 correct?
 9 A. Yes, sir, I did.
 10 Q. Is that within company policy for her to
 11 send that information to Ann Dora's?
 12 A. Can I see the document?
 13 Q. Sure, you can.
 14 MR. DYKES: It's number 58.
 15 A. Oh, is it in here?
 16 Q. Yeah. It's page 58 of Plaintiff's Exhibit
 17 2, and it was also an exhibit yesterday to
 18 Mr. Cannon's deposition.
 19 (Off-the-Record discussion.)
 20 A. Yes, sir. It would be appropriate in this
 21 case to send it to Ann Dora's.
 22 Q. Why is that?
 23 A. Mr. Cannon released -- gave the

Page 67

1 authorization to release the information.
 2 Q. And that -- on that piece of paper or --
 3 A. Yes, sir.
 4 Q. Is that the only reason it's appropriate?
 5 A. No, sir.
 6 Q. What are other reasons it's appropriate?
 7 A. If it's -- If they're going to be operating
 8 equipment controlled by the Department of
 9 Transportation, we're required by law to
 10 provide that information.
 11 Q. You don't have a choice?
 12 A. No, sir.
 13 Q. You must provide it?
 14 A. Yes, sir. And you must provide the facts
 15 that are known to you at the time.
 16 Q. Which makes it important that the facts be
 17 correct?
 18 A. Absolutely.
 19 Q. Did you have any role with regard to
 20 Mr. Cannon's claim for unemployment
 21 compensation?
 22 A. No, sir.
 23 Q. Do you know who did?

Page 68

1 A. No, sir.
 2 Q. Would that have happened before your
 3 involvement with his file in any way?
 4 A. Yes. No -- Well, not exactly sure what you
 5 mean by with this file.
 6 Q. With -- Before Mr. Cannon's file came to
 7 corporate.
 8 A. I wouldn't have had any part of the
 9 unemployment claim.
 10 Q. Are you aware that Mr. Cannon was awarded
 11 unemployment benefits?
 12 A. Not till I got the file.
 13 Q. Do you have any understanding as to when a
 14 former employee is entitled to unemployment
 15 benefits or not?
 16 A. I guess it's up to the state of -- in which
 17 they reside.
 18 Q. Of course, it is. But do --
 19 A. I don't -- I mean, all the states are
 20 different. I don't necessarily agree with
 21 them. But, I mean, if it fits their
 22 criteria, yes.
 23 Q. Do you have an understanding that if

Page 69

1 someone is fired for cause then they're not
 2 entitled to unemployment benefits?
 3 A. Yes.
 4 MR. DYKES: Object to the form.
 5 Q. You have that understanding?
 6 A. Yes.
 7 Q. Are you in any way miffed or surprised that
 8 Mr. Cannon was awarded unemployment
 9 benefits in this case?
 10 A. I'm surprised, yes.
 11 Q. Miffed?
 12 A. As in mad?
 13 MR. DYKES: Object to the form.
 14 Q. Yeah.
 15 A. No.
 16 Q. Page 64, please, sir. Can you identify
 17 this document for me?
 18 A. I have absolutely no idea.
 19 Q. There's a notation at the bottom, 5/29/07,
 20 that says faxed copy of drug test ID'd as
 21 batch ID 20070202 to Tom Davis, 3:45 p.m.
 22 Did I read that correctly?
 23 A. Yes, sir.

Page 70

1 Q. Do you know whose handwriting that is?
 2 A. No, sir.
 3 Q. Do you have an opinion as to whose
 4 handwriting that is?
 5 A. Yes, sir.
 6 Q. What's your opinion?
 7 A. It's probably Becky Brooner.
 8 Q. Do you know where this form was sent or if
 9 it was sent anywhere? There's a fax cover
 10 sheet, which is the next page, and I don't
 11 know if it goes with page 64 or not. Do
 12 you have an opinion as to whether it does
 13 or not?
 14 A. I don't know if the sheet behind it went
 15 with --
 16 Q. I would guess it doesn't, because the fax
 17 cover sheet says there's -- it's a six-page
 18 fax. But these aren't my documents, so ...
 19 A. Right.
 20 Q. If you have an opinion, please share it
 21 with me.
 22 A. The only opinion I -- or think I can tell
 23 you is they were dated the same day. And

Page 71

1 as far as if it was part of it or not ...
 2 Q. Were you finished with your answer?
 3 A. Yes.
 4 Q. All right. Page 66 of Plaintiff's Exhibit
 5 2, are you able to identify that document?
 6 A. Chain of custody for a drug test.
 7 Q. And what is a chain of custody?
 8 A. In layman's terms?
 9 Q. Sure.
 10 A. Because I'm not an expert on it. But it's
 11 a form that makes sure the right specimen
 12 from the right individual under his or her
 13 supervision is labeled correctly and goes
 14 to the MRO so there's no mix-up.
 15 Q. Well, what is the journey of the specimen?
 16 It goes from the body of the employee to a
 17 container?
 18 A. Correct.
 19 Q. And then where?
 20 A. Then to a third-party testing facility.
 21 Q. Some sort of medical provider?
 22 A. Yes.
 23 Q. And then where?

Page 72

1 A. I'm assuming it is disposed of.
 2 Q. Mr. Futral testified earlier today that it
 3 was his understanding that if there is a
 4 positive drug test that the employee would
 5 be notified by the MRO. Is that true?
 6 A. That's the procedure, yes, sir.
 7 Q. Was that the procedure of St. Louis MRO,
 8 Inc.?
 9 A. If they're a DOT drug testing facility,
 10 they would have to be.
 11 Q. Do you know if Mr. Cannon was contacted by
 12 St. Louis MRO, Inc.?
 13 A. I don't know that.
 14 Q. Do you know of any evidence in Mr. Cannon's
 15 file that he was contacted by St. Louis
 16 MRO?
 17 A. I'd have to look through the file.
 18 Q. Well, we've got his file as Plaintiff's
 19 Exhibit 2; right? And I'm happy for your
 20 lawyer to direct you anywhere.
 21 A. Okay.
 22 Q. It's not a memory test.
 23 A. Okay. Then it appears that they were

Page 73

1 unable to contact Mr. Cannon.
 2 Q. And you're reading from page 67?
 3 A. Yes, sir, that's correct.
 4 Q. Do you know why they were unable to contact
 5 him?
 6 A. No, sir.
 7 Q. Have you or anybody at the company, to your
 8 knowledge, done any investigation as to why
 9 they were not able to contact him?
 10 A. No, sir.
 11 Q. Okay. If you will flip to page 69 of
 12 Plaintiff's Exhibit 12. This is the second
 13 drug test, which was negative, taken on
 14 February 12th, verified February 14th. Do
 15 you know who marked on this page 69?
 16 A. No, sir, I don't.
 17 Q. You see that several things are circled?
 18 A. Yes, sir, I do.
 19 Q. You don't have any idea who did any of
 20 that?
 21 A. None.
 22 Q. Any of the handwritten information at the
 23 top of the page where it says attention

Page 74

1 Ms. Pullum? Do you know who wrote that?
 2 A. No, sir.
 3 Q. Do you recognize the handwriting?
 4 A. No, sir, I don't.
 5 Q. Do you have any opinion as to who wrote any
 6 of the handwriting stuff on page 69?
 7 A. None.
 8 Q. Is there a company policy with regard to
 9 writing on documents like this?
 10 A. Not -- No, sir.
 11 Q. Pages 72 through 74 of Plaintiff's Exhibit
 12 2 are what?
 13 A. It's a medical examination report for
 14 somebody who's certified or has a CDL
 15 driver's license.
 16 Q. Is this form required by the federal
 17 government?
 18 A. Yes, sir, it is.
 19 Q. And you would have one for all of your
 20 drivers; correct?
 21 A. Yes, sir, we do.
 22 Q. Page 78 of Plaintiff's Exhibit Number 2,
 23 what is that?

Page 75

1 A. It's a checklist for an observation of a
 2 road test for an employee.
 3 Q. The date on this road test was January 31,
 4 2007; is that correct?
 5 A. Yes, sir, that's what it reads.
 6 Q. About a week after Mr. Cannon was hired?
 7 A. Yes.
 8 Q. Is it typical to give the road test a week
 9 or so after the employee is hired?
 10 A. No, sir, it's not.
 11 Q. What is typical?
 12 A. Before they're -- Well, I'll back up. It's
 13 not typical if they're driving. It's -- It
 14 may be typical if they weren't driving up
 15 until the road test was done.
 16 Q. If they're driving, they should have taken
 17 the road test before they started driving?
 18 That's true, isn't it?
 19 A. Yes, sir.
 20 Q. That's required, isn't it?
 21 A. I don't know that it's required by the
 22 Department of Transportation.
 23 Q. It is company policy, however?

Page 76

1 A. Yes, sir.
 2 Q. Page 79 of Plaintiff's Exhibit 2, that's
 3 just a certification of the driving record
 4 of the prospective employee; is that
 5 correct?
 6 A. Given by that employee, yes, sir.
 7 Q. And pages 80 and 81 of Plaintiff's Exhibit
 8 2 are what?
 9 A. I'm sorry. 80 and ...
 10 Q. 81.
 11 A. Okay. Appears to be a copy of a background
 12 check.
 13 Q. On Mr. Cannon?
 14 A. Yes, sir. By a third party.
 15 Q. What type of background check? What are
 16 they checking?
 17 A. In this case it looks like his driving
 18 record.
 19 Q. And he had a clean driving record according
 20 to this report?
 21 A. Yes, sir, it appears that way.
 22 Q. Okay. Pages 86 and 87 of Plaintiff's
 23 Exhibit Number 2, can you identify those

Page 77

1 for me?

2 A. Appears to be two pages out of the safety

3 manual concerning drug free workplace.

4 Q. Are those two pages contained in the

5 employee handbook?

6 A. Not these exact two pages, no, sir.

7 Q. Are these two pages contained -- So these

8 two pages are not part of the handbook?

9 A. No, sir.

10 Q. They are separate?

11 A. Yes, sir. There's a separate safety

12 handbook.

13 Q. Do the employees get that entire handbook

14 or they just get these two pages?

15 A. They get the entire handbook.

16 Q. Why are these two pages in his personnel

17 file?

18 A. I have no idea.

19 Q. Do you recall if these two pages were in

20 his personnel file when you got the file?

21 A. I don't recall that, no.

22 Q. Would typically xeroxed pages from the

23 safety manual be in an employee's personnel

Page 78

1 file?

2 A. Yes, sir.

3 Q. So that's not unusual?

4 A. No, sir.

5 Q. Would it be unusual for the whole handbook

6 to be in there or just these two pages?

7 A. Yes, sir. That would be unusual for the

8 entire handbook to be in there.

9 Q. But not unusual for just those two pages?

10 A. Or maybe -- There could be other pages in

11 there but not the whole handbook.

12 Q. Who would make that determination as to

13 what goes in the file?

14 A. If this is part of the DOT file, it would

15 be the safety manager. Or in the absence

16 of a safety manager, the operations

17 manager.

18 (Plaintiff's Exhibit 3 was marked

19 for identification.)

20 Q. All right. I'm going to show you a group

21 of documents I have marked collectively as

22 Plaintiff's Exhibit Number 3. They are

23 Bates stamped pages 91 through 125. If you

Page 79

1 would take a look at those for me, please.

2 A. Okay.

3 Q. What are those documents?

4 A. This is a copy of the company handbook in

5 place of -- in July of '06.

6 Q. And was it in place during Mr. Cannon's

7 tenure?

8 A. Yes, sir, it was.

9 Q. Is this the entire handbook?

10 A. Yes, sir, it is.

11 Q. Every employee would get a copy when they

12 began work at your company?

13 A. Yes, sir, they should.

14 Q. And all the employees have to sign that

15 they received a copy?

16 A. Correct.

17 Q. On page 103 of Plaintiff's Exhibit Number 3

18 and page 104, there is a section entitled,

19 drug free workplace. Are you familiar with

20 that?

21 A. Yes, sir.

22 Q. And does that reflect the company policy

23 regarding the use of drugs that you

Page 80

1 testified yesterday?

2 A. Yes, sir, it does.

3 Q. And the fact that all employees will suffer

4 automatic termination if they test positive

5 for drugs, you would agree with me would

6 make it very important that the drug

7 testing be accurate?

8 A. Yes, sir.

9 Q. Would Mr. Cannon be eligible -- I want you

10 to assume -- Strike that.

11 I want you to assume -- I want you to

12 assume a hypothetical for me.

13 A. Okay.

14 Q. I'm not asking you to accept that this is

15 true, only -- But I am for the purposes of

16 my question.

17 A. Okay.

18 Q. All right. For purposes of my question, I

19 want you to assume that the positive drug

20 test on Mr. Cannon was inaccurate for

21 whatever reason.

22 A. Okay.

23 Q. Just for purposes of my question. Would he

Page 81

1 be eligible for rehire if that was true?
2 MR. DYKES: Object to the form.
3 A. If it could be proved it was inaccurate,
4 yes.
5 Q. Obviously. I'm asking you to assume --
6 A. Yes.
7 Q. -- that that's true.
8 I mean, the only reason he was
9 terminated was the positive test result --
10 drug test result?
11 A. Correct.
12 Q. Have you ever had an employee other than
13 Mr. Cannon dispute a positive drug test
14 result who was terminated?
15 A. At Advanced Disposal?
16 Q. Yes.
17 A. Not to my knowledge.
18 Q. Did anybody at the company, to your
19 knowledge -- Well, let me ask you this.
20 Did you take any steps -- you or anybody at
21 the company, to your knowledge, take any
22 steps to confirm that the test was
23 accurate?

Page 82

1 A. What do you mean by accurate?
2 Q. Well, that's fair. Did -- You recall that
3 Mr. Futral's testimony was that Mr. Cannon
4 denied that he had used drugs?
5 A. Yes, sir.
6 Q. Do you know if that denial was passed up
7 the chain to anybody beyond Mr. Futral?
8 A. Not to my knowledge.
9 Q. Did you hear Mr. Futral's testimony
10 regarding his explanation of why the second
11 test was done that was negative?
12 A. Yes, sir, I did.
13 Q. Do you have any reason to dispute that?
14 A. You mean dispute that he said that or why
15 he said that?
16 Q. Well, he offered a reason.
17 A. Yes.
18 Q. Do you have any reason to dispute his
19 reason?
20 A. I'd have to hear the reason exactly again
21 to ...
22 Q. Well, is there any procedure in place for
23 an employee if they erroneously tested

Page 83

1 positive -- if that happens, is there
2 any -- is there any way that the employee
3 can prove their innocence if they're really
4 innocent?
5 A. Yes, sir, there is.
6 Q. How would one go about doing that?
7 A. They would have to request a split sample
8 be tested, which are two samples taken --
9 or two samples are given. One is tested
10 and one is sealed and not tested. And if
11 they dispute it, it's up to them to have
12 the MRO at their expense test the second
13 sample.
14 Q. At the employee's expense?
15 A. Yes, sir.
16 Q. So the way that would happen would be the
17 MRO getting in contact with the employee;
18 is that correct?
19 A. If they could, yes, sir.
20 Q. So in a situation, assuming the documents
21 to be true, where the MRO couldn't get in
22 touch with Mr. Cannon for whatever reason
23 and Mr. Cannon denies that the positive

Page 84

1 drug test was correct, what is an employee
2 to do in that situation, if anything?
3 A. Contact the MRO and ask them to do a split
4 sample.
5 Q. There's no mechanism for the company to
6 contact the MRO based on the employee's
7 assertion that the test is wrong?
8 A. It's not their responsibility.
9 Q. Not whose responsibility?
10 A. The company's.
11 Q. Why not?
12 A. Well, we'd be asking for a split sample to
13 be done at -- for an employee and then
14 charging it to the employee.
15 Q. What's wrong with that?
16 A. Well, there's a lot wrong with it if all of
17 a sudden you get a bill for something and
18 you're, like, well, I didn't ask for that
19 split sample; the company requested it.
20 Q. So it's a financial problem?
21 A. I would imagine it would be for an employee
22 who just lost his job to have to come up
23 with the money to do a split sample, yes.

Page 85

1 Q. You imagine what?
2 A. That it would be a problem for the employee
3 if all of a sudden he gets a bill. And, of
4 course, he's going to dispute it.
5 MR. DYKES: I don't think he's --
6 I think --
7 Q. It sounds like you and I have gotten on
8 different wavelengths on this.
9 A. Okay. Fair enough.
10 MR. DYKES: Because I think he's
11 answering -- If you
12 don't mind, I mean --
13 MR. DOUGLAS: I don't mind. I'm
14 happy to get it cleared up.
15 MR. DYKES: I mean, I think you
16 were asking him why the
17 company doesn't do it and pay
18 for it itself, and he's
19 answering -- I think you took
20 the question to mean why
21 doesn't the company request
22 the test be taken. And he's
23 saying because they don't want

Page 86

1 the employee --
2 MR. DOUGLAS: That was my
3 question.
4 Q. I want to know why the company doesn't
5 request it if -- Why can't the employee
6 complain to the company and the company
7 say, okay, we'll do a split sample for you;
8 we'll ask the MRO to do a split sample?
9 A. You want my opinion why we don't do it
10 or ...
11 Q. Is there a reason? If there's a reason
12 that you know, that's what I'd like to
13 hear.
14 A. I don't know of a reason. I just -- I know
15 that if he's positive, it's up to him to
16 clear it up.
17 Q. But isn't it reasonable for some -- Assume
18 for the purposes of my question that
19 Mr. Cannon hadn't taken drugs in January of
20 2007.
21 A. Okay.
22 Q. Isn't it reasonable for someone in that
23 situation when they're told they're going

Page 87

1 to lose their job because they've tested
2 positive for drugs to tell their employer I
3 haven't taken any drugs? I mean, that's
4 reasonable, isn't it?
5 MR. DYKES: Object to the form.
6 A. It's reasonable. But at the same time, I
7 don't know that I've ever heard in my 20
8 plus years in the transportation business
9 of a driver saying that he did take drugs
10 and admit it. They're all not guilty.
11 Q. Is that right? You've never had an
12 employee test positive for drugs and just
13 say, okay, you got me?
14 A. No, sir, not to me they haven't.
15 Q. Okay. Well, I asked you earlier if this
16 had ever happened at Advanced Disposal and
17 you said no.
18 A. That's correct.
19 Q. How many times had it happened throughout
20 your career where they had denied the
21 positive drug test?
22 A. Probably -- Maybe ten times.
23 Q. Okay. And are you saying that in your

Page 88

1 20-some-odd career (sic) in this business
2 you've only known of ten to 15 people who
3 have been terminated for using illegal
4 drugs?
5 A. No. I'm telling you there's only about ten
6 that have complained to me. I don't --
7 This isn't -- This isn't my -- This isn't
8 part of my day-to-day operation. If
9 somebody complains, yes, they bring it to
10 me. But they could complain to somebody
11 else. In my past history when they have
12 complained to me, they complained I didn't
13 do it.
14 Q. I understand. But there's been a lot of
15 people who have tested positive who have
16 not complained at all?
17 A. I'm sure there are, yes.
18 Q. You know, they just get fired and that's
19 it.
20 A. Right.
21 Q. Okay. And there's certainly a lot more of
22 those than ones that complain; correct?
23 A. Correct.

Page 89

1 Q. Okay. So back to my question. You agree
2 with me if Mr. Cannon was really clean it's
3 reasonable for him to tell his bosses, hey,
4 I'm clean?
5 MR. DYKES: Object to the form.
6 Q. That's reasonable for him to do that, isn't
7 it?
8 MR. DYKES: Object to the form.
9 A. Yes, sir.
10 Q. What, if anything, would be Mr. Futral's or
11 Mr. Russell Davis' responsibility after
12 Mr. Cannon has told them, hey, I was clean?
13 A. They're -- I guess define their
14 responsibility.
15 Q. What should they say to him then?
16 A. If you disagree you can have a split
17 sample.
18 Q. All right. So would that -- Would it be
19 company policy that they tell him he had
20 that option?
21 A. That, I don't know. That's more of a
22 safety issue or question than mine. I
23 would defer to safety on that.

Page 90

1 Q. Well, there was -- there was a positive
2 test, and then two weeks later there's two
3 negative tests; one by his personal
4 physician and one by the company.
5 A. Correct.
6 Q. But he's fired after the negative test
7 comes back.
8 A. That's correct.
9 Q. Why?
10 A. Because he had a positive.
11 Q. Then why even do the second test?
12 A. I didn't request a second test, so I can't
13 answer that. I know he came up positive,
14 and then when I found it in my research, I
15 took it to safety.
16 Q. Right.
17 A. Safety checked it out, and Tom Davis made
18 the decision to terminate him.
19 Q. Well, why was the positive test, if you
20 know, given more weight than the negative
21 test?
22 A. Because if the DOT came in and found us
23 with a person with a positive test, we'd be

Page 91

1 cited for it. You can't have a driver out
2 there with a positive test under DOT
3 regulations.
4 Q. With the employee's name misspelled and not
5 even signed by a medical officer, and then
6 you've got another test, which is properly
7 formatted, which shows negative, you'd
8 still get in trouble, you think?
9 A. Yeah. The drugs could have been out of his
10 system by the time the second test was
11 taken.
12 Q. How do you know that?
13 A. From years of experience and knowing that
14 cocaine doesn't stay in the body as long as
15 marijuana does.
16 Q. Okay. According to your experience, how
17 long does cocaine stay in the body?
18 MR. DYKES: Well, I --
19 MR. DOUGLAS: He volunteered this
20 information.
21 MR. DYKES: No. I understand
22 that. You're saying -- I
23 would just like it cleared up

Page 92

1 from his experience taking
2 cocaine but from his
3 experience, because I --
4 MR. DOUGLAS: Of course not.
5 MR. DYKES: Okay. Your question
6 sounded like -- I mean, I just
7 wanted that clear, that it's
8 from your experience and
9 general knowledge of what --
10 MR. DOUGLAS: And I used his exact
11 words. I said from your
12 experience.
13 MR. DYKES: Okay.
14 A. I've already testified I've never used
15 drugs, so ...
16 Q. Yeah. Right.
17 A. In my experience, it's -- My knowledge is
18 that it can run out of the system in three
19 to four days.
20 Q. And where did you acquire that knowledge?
21 A. From different safety instruction I've had
22 over 20 years in the transportation
23 business.

Page 93

1 Q. Would you have gotten that knowledge from a
 2 medical -- someone in the medical field?
 3 A. I don't recall if it was a -- from an MRO
 4 or from a safety director.
 5 Q. Well, how long does marijuana stay in the
 6 system according to your experience in the
 7 industry?
 8 A. Up to 30 days.
 9 Q. Oh, just one thing that's clear. On
 10 Mr. Cannon's application, he disclosed that
 11 he had worked for Waste Management?
 12 A. Yes, sir, he did.
 13 Q. As a driver?
 14 A. Yes, sir.
 15 Q. Any driver would know that a -- Strike
 16 that.
 17 On Defendant's Exhibit 10, which is the
 18 positive drug test we've been speaking
 19 about, when does it indicate that the
 20 sample was collected?
 21 A. Hold on. I believe it says January 22nd.
 22 Q. That's what I believe as well. And when
 23 does it indicate that the sample was

Page 94

1 received, which is a couple lines below
 2 that?
 3 A. January 22nd.
 4 Q. Okay. And what is the verification date on
 5 the bottom right of that sample, which is
 6 not signed?
 7 A. 2/2/07.
 8 Q. And then something is handwritten under
 9 there?
 10 A. Yes.
 11 Q. What's the handwritten date?
 12 A. February 12, 2007.
 13 Q. Okay. So at a minimum, it was between
 14 January 22nd, when the sample was received,
 15 until February 2nd before it was verified,
 16 is that correct, according to the form?
 17 A. And what do you mean by ver -- I mean ...
 18 Q. The verification date.
 19 A. Okay.
 20 Q. Is that correct?
 21 A. That's correct.
 22 Q. Defendant's Exhibit 11 indicates, I
 23 believe, that the sample was collected --

Page 95

1 and this is the negative test -- was
 2 collected on February 12th; is that
 3 correct?
 4 A. Yes.
 5 Q. Received on February 12th also?
 6 A. Correct.
 7 Q. And verified two days later on February
 8 14th?
 9 A. Correct.
 10 Q. Does not the lapse of time on Defendant's
 11 Exhibit 10 give you pause as to the
 12 accuracy of that test?
 13 A. No, sir.
 14 Q. Why not?
 15 A. Well, on Exhibit 11 they don't make -- they
 16 don't have to make a determination to the
 17 company, because it's negative. They
 18 cannot make representation to the company
 19 because they couldn't contact the employee
 20 on Exhibit 10. They have to wait a certain
 21 number of days in order for the employee to
 22 contact them back if they leave messages
 23 and can't get ahold of them. Because

Page 96

1 you're waiting potentially for a split
 2 sample to be done, and then you verify.
 3 Q. And what are the -- what is that amount of
 4 time, if you know?
 5 A. I don't know. I believe it's two to three
 6 days from the time they start -- they get a
 7 positive until they haven't been able to
 8 contact the employee before they're allowed
 9 to notify us.
 10 Q. Is there anything in your files which would
 11 indicate any efforts by the MRO to contact
 12 the employee through the company?
 13 A. They can't do that.
 14 Q. They can't even call and ask for his number
 15 or anything?
 16 A. It's given on the chain of custody, a
 17 daytime and a nighttime phone number.
 18 Q. Did the company do any investigation as to
 19 why they were not able to get in touch with
 20 Mr. Cannon?
 21 A. No, sir.
 22 Q. Even after this litigation?
 23 A. No, sir.

Page 97

1 Q. So you have no idea about that?
2 A. No, sir.
3 Q. And do you know who wrote February 12, 2007
4 on Defendant's Exhibit 10?
5 A. No idea.
6 Q. Do you have any opinion?
7 A. No, sir.
8 Q. And I believe you testified yesterday you
9 don't know why the company is no longer
10 using St. Louis MRO, Inc.?
11 A. That's correct.
12 Q. Don't know if it has anything to do with
13 this Cannon incident or not?
14 A. I don't believe it does.
15 Q. Well, why don't you believe it does if you
16 don't have any idea of why? If you --
17 A. I'm --
18 Q. I'm not trying to argue with you.
19 A. No.
20 Q. But you're either clueless or you have some
21 idea. So which is it?
22 A. I'll take the Fifth on -- No. Because we
23 don't handle our vendors based on a

Page 98

1 lawsuit.
2 Q. Just as a general rule?
3 A. Right. Just because somebody came back
4 positive and there was an argument about it
5 doesn't mean the vendor was correct or
6 incorrect, so we wouldn't take any adverse
7 action.
8 Q. And that's what you base your statement you
9 don't think it has anything to do with this
10 case?
11 A. Correct.
12 Q. And I believe I asked you yesterday. You
13 haven't taken any statements from anybody
14 regarding this matter?
15 A. No, sir.
16 Q. And other than to your counsel, you've told
17 me about all the conversations you've had
18 regarding this matter?
19 A. I believe so, yes.
20 Q. I'm going to ask you just a couple of
21 questions about the hierarchy, if you will,
22 of the company. Yesterday you told me that
23 Van Forester was the district manager.

Page 99

1 A. That's correct.
2 Q. How many district managers are in the
3 company?
4 A. Today?
5 Q. Yes.
6 A. That role has --
7 MR. DYKES: Well -- I'm sorry.
8 A. That role has changed.
9 Q. Let's say when Mr. Cannon was working
10 there.
11 A. Okay. I believe there was four.
12 Q. Were any of them African-American at that
13 time?
14 A. No, sir.
15 Q. Mr. Russell Davis' title when Mr. Cannon
16 was working there was what type of manager?
17 A. I believe it was operations manager.
18 Q. Operations manager.
19 How many of those were there when
20 Mr. Cannon worked for your company?
21 A. In the entire company?
22 Q. Yeah.
23 A. Somewhere between six and eight.

Page 100

1 Q. Were any of those African-American?
2 A. I don't believe so.
3 Q. I'm sorry. I've forgotten Trey's last
4 name.
5 A. Allen.
6 Q. What was his title again?
7 A. Land -- General manager --
8 Q. General manager of the landfill?
9 A. -- of the landfill.
10 Q. How many of those were there when
11 Mr. Cannon worked for the company?
12 A. I believe around five or six.
13 Q. Were any of those African-American?
14 A. No, sir.
15 Q. Mr. Futral, what was his position? He was
16 just a supervisor?
17 A. Correct.
18 Q. Do you know how many of those you had?
19 Probably not.
20 A. No. If I had to guess, there was probably
21 a lot more of those. Probably 15 or 20.
22 Q. Do you know if any of those were
23 African-American?

Page 101

1 A. Yes. Yes, there were.
 2 Q. Do you know what the percentage was
 3 roughly?
 4 A. Probably 30, 35 percent.
 5 Q. 30 percent African-American?
 6 A. Correct?
 7 Q. 60 to 65 percent white?
 8 A. Correct.
 9 Q. Do you recall Mr. Cannon's testimony
 10 regarding Mr. Futral making the comment
 11 that I'm going to get Coke off the back of
 12 that truck?
 13 A. Yes, sir.
 14 Q. You remember that testimony?
 15 A. Yes, sir.
 16 Q. Assuming that testimony was true, that
 17 wouldn't be proper, would it?
 18 A. Absolutely not.
 19 Q. Do you yourself know if Mr. Conway was
 20 hired as a driver or a helper?
 21 A. No, sir, I don't.
 22 Q. Do you know if Mr. Conway's duties got
 23 better or less arduous or more pay after

Page 102

1 Mr. Cannon was terminated or not?
 2 A. No, sir, I don't.
 3 MR. DOUGLAS: Off the Record.
 4 (Off-the-Record discussion.)
 5 MR. DOUGLAS: We're back on the
 6 Record.
 7 Q. I asked you earlier why Mr. Cannon was
 8 terminated when there were two different
 9 tests showing different things and you
 10 answered that question, because you had a
 11 positive test?
 12 A. That's correct.
 13 Q. Is there any other reason?
 14 A. None whatsoever.
 15 Q. That's the only one?
 16 A. Yes.
 17 Q. Are you aware of Reuben Lowder?
 18 A. I've heard the name.
 19 Q. You heard Mr. Futral testifying about an
 20 accident that he had?
 21 A. Yes.
 22 Q. And that he was subsequently drug tested?
 23 A. Yes.

Page 103

1 Q. What is the determination as to whether or
 2 not a driver who has an accident is drug
 3 tested or not?
 4 A. The extent of the accident under DOT law.
 5 Q. And how much of an extent is sufficient or
 6 would trigger that requirement?
 7 A. To my knowledge, a vehicle is towed from
 8 the scene, if a party involved in the
 9 accident seeks medical attention, if
 10 there's a fatality or if there's a citation
 11 issued.
 12 Q. Any party to the accident or just a non --
 13 the nondriver seeking medical attention?
 14 A. Anybody within the accident.
 15 Q. So even the driver of the truck?
 16 A. If the driver of the truck is -- seeks
 17 medical attention or the person we hit or
 18 hit us seeks medical attention, no matter
 19 the fault of the accident.
 20 Q. You heard Mr. Futral's testimony regarding
 21 the accident that Mr. Conway had?
 22 A. Yes, sir.
 23 Q. Do you have any familiarity with that

Page 104

1 accident?
 2 A. Not the -- Not the specific details.
 3 Q. Well, tell me what you know about it, if
 4 anything.
 5 A. That it was a minor accident and it didn't
 6 fall within the parameters of a mandatory
 7 drug test.
 8 Q. You yourself haven't done any investigation
 9 with regard to that accident?
 10 A. No, sir.
 11 Q. Who would have made the determination that
 12 it was a minor accident and not required
 13 the --
 14 A. Safety department.
 15 Q. Mr. Davis' department?
 16 A. Yes.
 17 Q. Would there be a record of Mr. Conway's
 18 accident at your company?
 19 A. There should be, yes.
 20 Q. Police report?
 21 A. If there was a police report.
 22 Q. Where would that information be?
 23 A. It would be in either his DOT file or in

Page 105

1 his personnel file.

2 Q. I'm all out of folders, so I'm all out of
3 questions. Thank you very much.

4 MR. DYKES: I don't have any.

5 Well, hold on. Can we

6 talk a minute?

7 THE WITNESS: Yeah.

8 (Off-the-Record discussion.)

9 MR. DYKES: I do have a couple of
10 questions.

11 EXAMINATION

12 BY MR. DYKES:

13 Q. Mr. Guest, who was it that you consulted
14 after you found the positive drug test
15 record for Mr. Cannon?

16 A. Tom Davis.

17 Q. And what is his position?

18 A. Director of safety.

19 Q. How many directors of corporate safety do
20 y'all have?

21 A. One.

22 Q. What race is Mr. Davis?

23 A. African-American.

Page 107

1 In The U.S. District Court

2 For the Middle District of Alabama

3 Eastern Division

4 Case Number 3:07-CV-846-WKW

5 on Thursday, April 10, 2008 and Friday, April 11,
6 2008.

7 The foregoing 106 computer-printed pages
8 contain a true and correct transcript of the
9 examination of said witness by counsel for the
10 parties set out herein. The reading and signing of
11 same is hereby waived.

12 I further certify that I am neither of kin
13 nor of counsel to the parties to said cause nor in
14 any manner interested in the results thereof.

15 This 2nd day of May 2008.

16
17
18
19 _____
Haley A. Phillips, ACCR #151

20 Expiration Date: 9/30/08

21 Certified Court Reporter and

22 Commissioner for the State

23 of Alabama at Large

Page 106

1 MR. DYKES: No questions.

2 *****

3 FURTHER DEPONENT SAITH NOT

4 *****

5 REPORTER'S CERTIFICATE

6 STATE OF ALABAMA:

7 ELMORE COUNTY:

8 I, Haley A. Phillips, Certified Court
9 Reporter, ACCR # 151, and Commissioner for the
10 State of Alabama at Large, do hereby certify that I
11 reported the deposition of:

12 GLENN GUEST

13 who was first duly sworn by me to speak the truth,
14 the whole truth and nothing but the truth, in the
15 matter of:

16 ROBERT CANNON,

17 Plaintiff,

18 vs.

19 ADVANCED DISPOSAL SERVICES

20 ALABAMA, LLC, d/b/a SUNFLOWER

21 WASTE, LLC,

22 Defendants.

<p>A</p> <p>ABF 12:9,10</p> <p>able 29:18 71:5 73:9 96:7,19</p> <p>about 5:4 8:19,21 11:6 14:14,19 18:3 25:16 30:1 31:19 32:18 36:10 46:18 48:15,22 53:3 54:18 56:9 64:3 75:6 83:6 88:5 93:19 97:1 98:4,17,21 102:19 104:3</p> <p>above 32:22</p> <p>absence 78:15</p> <p>absolutely 14:13 25:20 27:19 30:19 35:6 44:13 45:15 51:2,4 59:7 67:18 69:18 101:18</p> <p>accept 23:20 53:17 80:14</p> <p>access 63:15</p> <p>accident 102:20 103:2 103:4,9,12,14,19,21 104:1,5,9,12,18</p> <p>accordance 19:20</p> <p>according 22:2,3 76:19 91:16 93:6 94:16</p> <p>account 47:20</p> <p>ACCR 1:16 3:7 106:10 107:19</p> <p>accuracy 95:12</p> <p>accurate 80:7 81:23 82:1</p> <p>acknowledge 56:16</p> <p>acquire 92:20</p> <p>across 44:19</p> <p>action 1:7 98:7</p> <p>actions 62:20</p> <p>active 42:3,4 44:20</p> <p>actually 24:22 29:13 49:22 63:6,9</p> <p>additional 62:18</p> <p>address 50:23</p> <p>adjourned 51:6</p> <p>administration 8:6</p> <p>admit 87:10</p> <p>ADS 15:22</p> <p>Advanced 1:8 2:18 5:18,19,21 6:1,6,15 6:17,22 7:10 9:23 10:8 11:1 13:13,23 15:3,10 41:16 81:15 87:16 106:20</p> <p>adverse 98:6</p> <p>African-American 99:12 100:1,13,23 101:5 105:23</p>	<p>after 4:6 26:9 49:15 51:10 64:18 75:6,9 89:11 90:6 96:22 101:23 105:14</p> <p>again 32:12 40:6 82:20 100:6</p> <p>agree 55:19 56:8 68:20 80:5 89:1</p> <p>agreed 3:2,16,23</p> <p>agreement 1:15</p> <p>ahead 33:6 41:13</p> <p>ahold 95:23</p> <p>AIG 7:6 13:18</p> <p>Alabama 1:2,8,17,19 2:5,10 3:8 4:19,21 6:10,17,19,21 14:7 43:17 66:2 106:7,11 106:21 107:2,21</p> <p>alcohol 18:3,5 23:4 41:18 62:12 66:7</p> <p>Alexandria 9:14</p> <p>allegation 42:10,11</p> <p>allegations 24:6,15 25:5</p> <p>alleged 24:6</p> <p>allegedly 14:22</p> <p>Allen 31:17 32:22 33:1 33:2,6 100:5</p> <p>allow 27:12,17</p> <p>allowed 23:19 96:8</p> <p>already 16:10 48:4 92:14</p> <p>always 14:18</p> <p>amount 14:9 96:3</p> <p>amphetamines 34:12</p> <p>analysis 19:21 42:6</p> <p>Ann 66:1,11,21</p> <p>another 13:15 16:21 60:23 62:1 91:6</p> <p>answer 5:9 21:11,18 22:2,3 24:17 31:9 53:10,20 71:2 90:13</p> <p>answered 54:4 102:10</p> <p>answering 31:10 85:11 85:19</p> <p>answers 21:4</p> <p>anti-discrimination 16:17 25:10</p> <p>anti-drug 17:6</p> <p>anybody 13:5,6 17:20 17:22,23 26:13 33:11 38:8 44:20 59:5 73:7 81:18,20 82:7 98:13 103:14</p> <p>anyone 23:21 38:4</p> <p>anything 9:3 23:4 24:10,13 29:9 30:7 30:10 52:7 53:23 54:18 57:20,23 58:3</p>	<p>58:13 59:4,6 60:4,5 63:21 84:2 89:10 96:10,15 97:12 98:9 104:4</p> <p>anywhere 65:10 70:9 72:20</p> <p>apologize 10:16 65:21</p> <p>appear 60:14 65:5</p> <p>APPEARANCES 2:1</p> <p>appears 59:21 60:9,15 64:10,11 72:23 76:11 76:21 77:2</p> <p>applicants 19:16 23:23 36:12</p> <p>application 52:22 53:1 53:7,11,16 58:6 93:10</p> <p>apply 15:7 25:10</p> <p>appreciate 27:20</p> <p>appropriate 62:21 63:2 66:20 67:4,6</p> <p>approximate 14:9</p> <p>approximately 1:20,21 51:9</p> <p>April 1:19,21 51:9 107:5,5</p> <p>arduous 101:23</p> <p>area 12:18 19:12</p> <p>argue 97:18</p> <p>argument 98:4</p> <p>arise 16:19</p> <p>Arnold 10:18</p> <p>around 12:14 15:22 100:12</p> <p>arrived 17:12</p> <p>Arrow 6:20</p> <p>arts 8:22</p> <p>asked 21:5 35:10 65:21 87:15 98:12 102:7</p> <p>asking 28:6 80:14 81:5 84:12 85:16</p> <p>aspect 16:18</p> <p>aspects 9:21</p> <p>assertion 84:7</p> <p>assistant 27:7</p> <p>associate 8:22</p> <p>assume 5:12 80:10,11 80:12,19 81:5 86:17</p> <p>assuming 72:1 83:20 101:16</p> <p>Athens 4:14 8:16</p> <p>attach 58:17</p> <p>attention 35:17 73:23 103:9,13,17,18</p> <p>attorney 27:11 31:2 59:9</p> <p>Attorneys 2:8</p> <p>Auburn 1:19 2:5 15:21</p> <p>Authority 59:22 60:16</p>	<p>60:19,21,22 62:3</p> <p>authorization 67:1</p> <p>automatic 80:4</p> <p>Avenue 2:9</p> <p>awarded 68:10 69:8</p> <p>aware 24:6 25:5 68:10 102:17</p> <p>a.m. 1:22 51:10</p> <p>B</p> <p>B 2:3,4</p> <p>Bachelor 8:6</p> <p>back 19:22 29:13 37:7 48:23 52:17 60:18 75:12 89:1 90:7 95:22 98:3 101:11 102:5</p> <p>background 23:1,23 36:12,16 37:4,10,16 37:19 38:5 76:11,15</p> <p>Barns 60:22</p> <p>base 98:8</p> <p>based 35:17 84:6 97:23</p> <p>basically 15:13</p> <p>batch 69:21</p> <p>Bates 40:1,11 51:17 52:19 54:8,9 57:5 59:16 78:23</p> <p>Beasley 32:18 60:10 62:7 64:23 65:14,23</p> <p>Beasley's 62:20</p> <p>Becky 70:7</p> <p>beer 18:20</p> <p>before 1:15 3:6 5:13 8:4 10:17 11:5,12,19 12:8 13:12 23:19 26:9 40:9 41:5 68:2,6 75:12,17 94:15 96:8</p> <p>began 79:12</p> <p>begin 20:21</p> <p>behind 70:14</p> <p>being 29:16 40:22 53:2 56:12</p> <p>believe 12:14 14:5 16:1 21:1 28:19,21 29:3 31:23 33:9,15,21 34:3 37:23 39:11 43:22 45:11 46:5 49:11,12 93:21,22 94:23 96:5 97:8,14 97:15 98:12,19 99:11 99:17 100:2,12</p> <p>bell 34:15</p> <p>below 33:11 94:1</p> <p>benefits 68:11,15 69:2 69:9</p> <p>best 23:17 40:21</p> <p>bet 44:17</p> <p>better 5:9 101:23</p>	<p>between 3:3,17 4:1 35:8 49:13 55:23 94:13 99:23</p> <p>beyond 82:7</p> <p>big 47:21</p> <p>bill 84:17 85:3</p> <p>biographical 58:3</p> <p>Birmingham 2:10 6:20</p> <p>blank 53:17</p> <p>board 13:22</p> <p>body 71:16 91:14,17</p> <p>bosses 89:3</p> <p>both 31:9 48:7</p> <p>bottom 40:13 49:16 61:9 69:19 94:5</p> <p>branches 22:12</p> <p>break 51:3</p> <p>briefly 36:10</p> <p>bring 88:9</p> <p>Brooks 2:8</p> <p>Brooner 60:10 61:11 61:12,18 62:15,16 63:9 70:7</p> <p>Brooner's 63:1</p> <p>brought 49:7</p> <p>business 6:3,20 8:3,6 8:10,11 87:8 88:1 92:23</p> <p>businesses 15:16</p> <p>buy 13:20</p> <p>C</p> <p>C 15:18</p> <p>call 26:16,20 35:8 38:18 65:9 96:14</p> <p>called 15:18 46:5</p> <p>calling 37:5</p> <p>came 68:6 90:13,22 98:3</p> <p>Cannon 1:5 12:23 24:3 24:8 25:6 26:1 34:11 38:6 41:2 44:23 45:1 46:6 47:10,17 52:23 53:9,16 60:1 61:19 62:3,11 63:22 64:23 65:4,6 66:6,23 68:10 69:8 72:11 73:1 75:6 76:13 80:9,20 81:13 82:3 83:22,23 86:19 89:2,12 96:20 97:13 99:9,15,20 100:11 102:1,7 105:15 106:17</p> <p>Cannon's 2:17 20:15 37:11 39:3 42:2 54:14 55:17 57:16 65:9 66:18 67:20 68:6 72:14 79:6 93:10 101:9</p>
--	--	--	--	--

capacity 10:21	46:22 47:5,8,18	64:19 65:1 77:3	COUNTY 106:8	department 67:8 75:22
card 30:8,9	91:14,17 92:2	conduct 23:1	couple 47:2 94:1 98:20	104:14,15
career 87:20 88:1	Coke 28:7 101:11	conducted 36:17	105:9	DEPONENT 106:3
case 3:18,20 30:22	collect 6:8	confirm 81:22	course 38:1 68:18 85:4	deposition 1:14 3:4,6
42:18 43:21 48:2,9	collected 19:19 93:20	Constangy 2:8	92:4	3:13,18 4:2 5:12 10:3
66:21 69:9 76:17	94:23 95:2	construction 15:17	Court 1:1,16,19 2:5 3:7	10:4 13:12 37:12
98:10 107:4	collectively 78:21	consulted 49:15 105:13	106:9 107:1,20	51:6,8,11,13 55:17
categories 25:19 50:3	College 8:23	contact 64:23 73:1,4,9	cover 60:17 70:9,17	66:18 106:12
Catherine 1:18 2:5	come 15:22 19:22 32:8	83:17 84:3,6 95:19	covered 12:15	details 104:2
Caucasian 33:8,20	44:19 60:16 84:22	95:22 96:8,11	criminal 37:3,10,16	determination 78:12
caught 49:7	comes 17:2 90:7	contacted 72:11,15	criteria 68:22	95:16 103:1 104:11
cause 69:1 107:13	command 33:3	contain 107:8	crossed 60:18	difference 55:23 56:3
CDL 30:5 74:14	commencing 1:20,21	contained 2:17 57:16	currently 5:15	different 9:20 14:3
Central 8:16	comment 61:1 101:10	58:6 59:17 77:4,7	custody 71:6,7 96:16	15:13 16:23 30:4
certain 95:20	commercial 30:5	container 71:17		31:8 68:20 85:8
certainly 88:21	commission 3:9	containers 15:18	D	92:21 102:8,9
CERTIFICATE 106:6	Commissioner 1:17 3:8	contains 46:15 54:14	D 15:18	differentiate 30:20
certification 9:10 76:3	106:10 107:20	continued 51:12	Danny 33:12,14 51:11	dig 27:7
certifications 9:7	companies 13:9,20	contracted 21:22	date 30:20 62:6 75:3	dilute 20:3
certified 1:16 3:7 74:14	14:15	controlled 67:8	94:4,11,18 107:19	diluted 20:1,2,11
106:9 107:20	company 5:20 6:7 7:2,5	controller 61:16	dated 70:23	dilutes 20:7
certify 106:11 107:12	7:7,15 10:23 11:10	conversations 98:17	dates 63:14	direct 72:20
chain 33:3 71:6,7 82:7	11:17,21 14:10 15:1	convicted 53:12	Davis 22:6,23 31:15,16	directing 64:22
96:16	15:8 16:17 17:13	Conway 28:7 30:12	32:22 33:1,1,7,11	directly 50:12
change 18:22	18:4,19 20:15,19,21	101:19 103:21	36:7,9 42:4 45:2 46:1	director 10:22 21:17
changed 16:12 17:15	21:6 22:12,18 23:1,9	Conway's 101:22	47:18 48:11,15,21,22	22:4,7,11,14 93:4
34:20 99:8	23:13,22 25:9 28:10	104:17	49:1,3,12,17,17 50:4	105:18
charge 31:6 39:8 40:17	28:13,15 29:5,17	coordinator 12:1,2	50:6 69:21 89:11	directors 13:23 105:19
charged 32:2	30:13 34:6,21 38:4	copy 39:14,16,17 69:20	90:17 99:15 104:15	disagree 89:16
charging 84:14	43:8 45:14 50:8,11	76:11 79:4,11,15	105:16,22	disciplinary 56:4,17
check 36:13,16 37:3,19	51:20 56:11,15,23	corporate 9:23 38:19	day 70:23 107:15	disclosed 93:10
38:5 50:19 76:12,15	57:20 62:22 63:2	38:22 39:4,10,15,17	days 40:22 92:19 93:8	discretion 63:4
checked 90:17	64:8 66:10 73:7 74:8	53:2,6 68:7 105:19	95:7,21 96:6	discrimination 16:6,14
checking 76:16	75:23 79:4,12,22	corporation 6:2 11:6	daytime 96:17	16:16 24:7 25:1,6,15
checklist 75:1	81:18,21 84:5,19	corporations 10:11	day-to-day 31:7 32:1	25:23 26:2,8 40:18
checks 23:2	85:17,21 86:4,6,6	correct 10:12 11:9	88:8	42:13,18,22
choice 67:11	89:19 90:4 95:17,18	12:17,22 13:3 17:14	deal 47:21 51:22	discussion 40:5 51:5
circled 73:17	96:12,18 97:9 98:22	17:21 18:10,13,22	deals 52:2	52:16 65:20 66:19
citation 103:10	99:3,20,21 100:11	21:2 22:1,8 26:17,19	deceptive 54:1	102:4 105:8
cited 91:1	104:18	32:10 38:3,20 39:18	decide 44:15	Disposal 1:8 2:18 5:18
cities 15:23 16:2	company's 7:18 16:5	45:3 46:13,17,20,21	decision 14:18 36:6	5:19,22 6:1,6,15,17
City 15:21 47:20	17:6 36:11,15 52:3	46:23 47:4,6,9 49:4	63:1 90:18	6:20,22 7:10 10:1,8
Civil 1:7 3:5	53:15 84:10	50:1,9 51:15 54:16	defendant 1:10 2:6	11:1 13:13,23 15:3
claim 35:4 63:22 67:20	compensation 67:21	55:22 56:9 60:11	13:8 21:7	15:10 41:16 81:15
68:9	complain 86:6 88:10	61:4,7,20 62:4,8,13	Defendants 106:23	87:16 106:20
Clarke 8:16	88:22	62:19 64:12 66:3,8	Defendant's 34:10 46:9	disposed 72:1
class 9:15,17	complained 88:6,12,12	67:17 71:18 73:3	46:15 47:1,7,12	disposing 15:19
classes 9:20	88:16	74:20 75:4 76:5	49:21 55:16 56:1,1	dispute 81:13 82:13,14
clean 47:23 48:1 76:19	complains 88:9	79:16 81:11 83:18	56:13,20 64:16 65:14	82:18 83:11 85:4
89:2,4,12	complaint 25:7 43:10	84:1 87:18 88:22,23	93:17 94:22 95:10	district 1:1,2 31:11
clear 27:21 86:16 92:7	43:21	90:5,8 94:16,20,21	97:4	32:13,14 98:23 99:2
93:9	complaints 16:19,21	95:3,6,9 97:11 98:5	defer 89:23	107:1,2
cleared 85:14 91:23	completing 38:1	98:11 99:1 100:17	define 89:13	Division 1:3 107:3
clerk 18:11	Composite 2:16,17	101:6,8 102:12 107:8	degree 7:22 8:5	divisions 15:14
clinic 20:5	computer 27:13	correctly 49:23 69:22	degrees 8:18	doctor 36:2
clueless 97:20	computer-printed	71:13	deliver 11:15 12:11	document 40:21 51:19
Coast 6:18	107:7	counsel 3:3,17 98:16	denial 82:6	57:2 59:20 64:5
COBRA 64:21	Con 30:12	107:9,13	denied 82:4 87:20	66:12 69:17 71:5
cocaine 34:12 41:6	concerning 60:1 64:18	counties 5:1,3 32:17	denies 83:23	documents 2:16,17

39:22 40:7 57:4,9,12 57:15 70:18 74:9 78:21 79:3 83:20 doing 6:19 41:14 42:7,8 83:6 done 19:13 24:2 25:22 38:6 57:11 73:8 75:15 82:11 84:13 96:2 104:8 doorway 49:20 Dora's 66:2,11,21 DOT 19:20 23:20 30:8 57:17 72:9 78:14 90:22 91:2 103:4 104:23 Douglas 1:18 2:3,4,13 4:10 24:16,19,22 25:3 28:2,5 51:12 52:15,17 58:21 59:11 59:14 60:13 65:19 85:13 86:2 91:19 92:4,10 102:3,5 down 20:5 45:10 62:21 drink 18:14 20:4 driven 12:3 driver 17:22 23:20 29:7 30:5,12,22 87:9 91:1 93:13,15 101:20 103:2,15,16 drivers 26:16,23 27:10 27:22,23 30:1 31:13 74:20 driver's 30:6 74:15 driving 31:17 36:11 75:13,14,16,17 76:3 76:17,19 drug 14:22 15:1 19:5 19:10,17,18 20:16 23:15,18 34:8,11 35:4 36:4 37:20 41:14 42:14,16 46:8 46:12 47:11,22 48:4 48:10 54:13 62:12 66:7 69:20 71:6 72:4 72:9 73:13 77:3 79:19 80:6,19 81:10 81:13 84:1 87:21 93:18 102:22 103:2 104:7 105:14 drugs 17:18 18:8 21:9 23:4 34:6,17 35:3,19 41:17 42:5,23 43:1 44:21 79:23 80:5 82:4 86:19 87:2,3,9 87:12 88:4 91:9 92:15 due 62:11 duly 4:6 106:14 dumpster 15:17	during 79:6 duties 16:15 29:4 50:15 101:22 Dykes 2:7,13 14:12 24:9,18 25:2 27:21 28:3 40:15 44:14 52:12 53:19 58:15,22 59:13,15 63:23 66:14 69:4,13 81:2 85:5,10 85:15 87:5 89:5,8 91:18,21 92:5,13 99:7 105:4,9,12 106:1 d/b/a 1:8 106:21 E earlier 5:1 14:14 36:10 72:2 87:15 102:7 easier 49:18 Eastern 1:3 107:3 EEO 52:4 EEOC 39:7 43:21 52:9 effect 45:12 efforts 96:11 eight 99:23 either 3:14,20 16:20 19:22 20:3,4 26:11 64:2 97:20 104:23 eligible 37:17,21 38:3 80:9 81:1 ELMORE 106:8 Emory 8:23 employed 5:15,17 employee 2:19 35:3,9 35:10 41:23 42:5 43:9 47:18 56:12 57:17 68:14 71:16 72:4 75:2,9 76:4,6 77:5 79:11 81:12 82:23 83:2,17 84:1 84:13,14,21 85:2 86:1,5 87:12 95:19 95:21 96:8,12 employees 7:6 17:5 19:11,16 20:10 21:9 34:7 36:3 38:15,22 39:1 41:16 43:18 77:13 79:14 80:3 employee's 56:16 77:23 83:14 84:6 91:4 employer 17:3 52:6 87:2 employers 37:6 employment 10:14 12:15 28:18 52:1,22 63:15 66:1 encountered 35:2 end 28:17 enforcing 16:16	enjoyment 18:20 enough 39:23 85:9 entered 23:18 entire 31:12 36:23 39:9 77:13,15 78:8 79:9 99:21 entitled 68:14 69:2 79:18 entity 6:3 environmental 32:5 Equal 52:6 equally 25:10 equipment 67:8 equity 7:5 13:16 erroneously 82:23 Esq 2:3,7 even 18:11 44:3 90:11 91:5 96:14,22 103:15 ever 4:19,21 12:3 13:4 13:5,6 14:15,21 28:9 30:12 39:3 53:11 81:12 87:7,16 every 41:21,23 54:8 79:11 everybody 15:7 42:15 42:23 63:13 everything 47:8 evidence 3:13 72:14 evidenced 47:11 exact 77:6 92:10 exactly 7:4,8 19:12 26:12 68:4 82:20 examination 2:12 4:9 51:12 74:13 105:11 107:9 exasperation 45:13 exceptions 18:1 excuse 62:16 Executive 8:3 exhibit 2:15 34:10 39:19,21 40:3 41:3 46:9,15 47:1,7,12 49:21 51:18 52:9,20 54:7 55:17 56:1,2,13 56:20 57:3,6 58:7,10 58:11 59:18 60:9 64:6,16 65:3,8,14 66:16,17 71:4 72:19 73:12 74:11,22 76:2 76:7,23 78:18,22 79:17 93:17 94:22 95:11,15,20 97:4 exist 16:9 existence 17:12 expect 54:2 expense 83:12,14 experience 91:13,16 92:1,3,8,12,17 93:6 expert 71:10	expertise 12:19 Expiration 107:19 explain 6:5 explanation 41:12 48:23 53:18 82:10 expressing 45:13 extent 103:4,5 eyes 40:20 53:7 F facility 19:19 24:4,7 25:6 26:1,17,22 28:1 31:4,6 33:10 36:1 38:16 71:20 72:9 fact 49:15 63:21 80:3 facts 67:14,16 failed 42:13,16 failing 14:22 23:22 50:15 failure 53:10 fair 12:18 38:18 82:2 85:9 fairly 43:2 fall 104:6 familiar 16:4 17:7 19:13 20:19 79:19 familiarity 103:23 family 4:23 far 7:21 18:18 19:12 25:3 36:15 37:5 71:1 fatality 103:10 fault 103:19 fax 60:9,15 70:9,16,18 faxed 69:20 February 44:17 73:14 73:14 94:12,15 95:2 95:5,7 97:3 federal 2:9 3:5 74:16 felony 53:12 few 40:22 field 41:18 93:2 Fifth 2:9 97:22 file 2:17 39:3,9,14 48:9 53:2,5 57:17,17,21 58:20 59:3,6,8,12 68:3,5,6,12 72:15,17 72:18 77:17,20,20 78:1,13,14 104:23 105:1 filed 43:3,21 files 37:20 38:14,21 57:18 63:16 96:10 filing 3:18,22 52:10 final 50:19 financial 84:20 find 30:15 45:18 finding 44:5 fine 65:13 finish 5:7,8	finished 71:2 fired 69:1 88:18 90:6 firm 13:16,17 61:9 first 4:6 10:7 13:2 39:7 40:20 42:6 43:7 45:18 48:2,6 53:6 106:14 fit 50:2 fits 68:21 five 100:12 fix 49:8 flip 40:11 51:17 52:19 54:6 55:14 59:16 60:8 61:6,22 73:11 Florida 4:16 7:19 14:8 22:10 43:20 folders 57:21 105:2 followed 41:20 follows 4:8 foregoing 107:7 Forester 31:11 32:11 32:21 49:2,9,17 98:23 forgive 32:6 forgotten 43:7 100:3 form 3:11 14:12 53:19 55:12,16,20 56:4,5 56:17 59:12 60:2,23 61:4 63:5,23 64:7,15 65:10,16 69:4,13 70:8 71:11 74:16 81:2 87:5 89:5,8 94:16 formality 3:9 formally 6:16 formatted 91:7 former 68:14 forms 65:17 formulate 16:8 formulating 17:9 found 41:8,9 46:1 90:14,22 105:14 four 6:13 14:5 15:13 43:12 92:19 99:11 free 77:3 79:19 Freight 11:13,14 12:9 12:10 Friday 1:21 51:8 107:5 friends 5:3 from 4:13 7:23 8:22 9:11,12 13:20 14:21 15:15,16 16:2 17:3,3 18:22 21:10 22:3 23:12 26:23 31:4 52:8 59:21 60:10,16 64:7 71:12,16 73:2 77:22 91:13 92:1,2,8 92:11,21 93:1,3,4 96:6 98:13 103:7
---	--	--	--	--

front 45:5	guilty 87:10	household 29:14	innocence 83:3	know 5:4 7:3,4,8 12:5
further 3:16,23 106:3	Gulf 6:18	Housing 59:22 60:5,16	innocent 83:4	12:23 18:18 20:2
107:12	guys 32:8	60:19,21,22 62:3	input 30:23	22:22 26:15,22 27:14
Futral 33:12,20 51:11	<hr/>	HR 12:19	inquire 54:3	28:7,9,12,17,22 29:2
64:9,20 65:1 72:2	H	huh 44:17	instead 60:17	29:4,7 31:7 34:4,9,20
82:7 100:15 101:10	Haley 1:15 3:6 106:9	human 9:9,12,21 10:22	instructed 36:3	34:22,23 36:1,22,23
102:19	107:19	11:11 12:1	instruction 92:21	37:1,5,7 38:8 41:5,7
Futral's 33:14 55:15	half 11:7	hypothetical 80:12	instructions 64:17	43:1,6,16 44:3 45:5
56:6 82:3,9 89:10	Hall 7:1	<hr/>	insurance 64:19,21	46:17 47:10 48:8
103:20	hand 57:2	I	65:16	49:8 50:10,17 53:21
future 7:17	handbook 2:19 51:21	ID 69:21	intake 16:19	54:18 55:6,9 56:19
<hr/>	77:5,8,12,13,15 78:5	idea 14:13 22:18 27:3	interested 107:14	56:22,22,23 60:2,4,7
G	78:8,11 79:4,9	38:11 47:14,15,16,17	interrogatories 20:23	61:13 63:16 65:13
garbage 5:20 6:9 15:14	handle 97:23	55:11 60:3 65:18	interview 17:4	67:23 70:1,8,11,14
29:14 32:9 33:18	handled 19:2 20:15	69:18 73:19 77:18	introduced 3:19	72:11,13,14 73:4,15
gave 21:18 47:10,22	hands 46:2	97:1,5,16,21	investigate 16:20,22	74:1 75:21 82:6 86:4
48:22 66:23	handwriting 54:18	identification 39:20	investigation 25:23	86:12,14,14 87:7
gender 25:11 42:20	55:7,9 70:1,4 74:3,6	57:7 78:19	73:8 96:18 104:8	88:18 89:21 90:13,20
general 31:18,21 92:9	handwritten 55:2	identify 51:19 57:9,12	involve 42:12	91:12 93:15 96:4,5
98:2 100:7,8	73:22 94:8,11	59:20 64:5 69:16	involved 13:4 103:8	97:3,9,12 100:18,22
generated 17:1 60:2	happen 64:18 83:16	71:5 76:23	involvement 68:3	101:2,19,22 104:3
generates 14:11	happened 46:7 49:6	ID'd 69:20	issue 89:22	knowing 91:13
gentleman 56:19	68:2 87:16,19	ignorance 32:7	issued 103:11	knowledge 17:16 23:17
gentleman's 22:5	happens 20:10 83:1	ignoring 48:5	issues 64:18 65:1	28:16 34:18 35:18
gentlemen 33:8	happy 45:8,9 72:19	illegal 17:18 34:17 88:3	<hr/>	41:1 63:17 64:20
Georgia 4:14 8:8,17	85:14	imagine 44:18 84:21	J	73:8 81:17,19,21
14:7 19:1 43:19	harassment 26:7 52:3	85:1	J 2:7	82:8 92:9,17,20 93:1
gets 48:4 85:3	having 4:6 64:15	implementation 25:13	Jacksonville 4:16 7:19	103:7
getting 15:15 83:17	headquarters 7:18	implementing 23:10	8:1 22:10 38:18	known 6:16 7:5 67:15
give 41:12 75:8 95:11	hear 82:9,20 86:13	imply 58:13	James 2:3	88:2
given 5:12 41:15 59:8	heard 20:20 37:14	important 5:6 67:16	January 21:10 26:23	<hr/>
59:11 65:3,6 76:6	65:22 66:5 87:7	80:6	31:5 36:8 75:3 86:19	L
83:9 90:20 96:16	102:18,19 103:20	inaccurate 80:20 81:3	93:21 94:3,14	labeled 71:13
giving 21:14 44:11	help 16:8	Inc 2:18 6:23 10:1 21:8	job 4:21 11:3 14:21	laboratory 19:21
64:17	helper 29:8,8,11,17	72:8,12 97:10	16:18 61:4,6 84:22	lady 45:6,9
Glenn 1:14 3:4 4:5,12	30:21 101:20	incident 97:13	87:1	lady's 22:5
4:13 106:13	helpers 30:4	included 32:17 50:16	journey 71:15	laid 53:7
go 7:21 11:19 25:17	her 61:13 66:5,10	52:9 63:18,19	Jr 2:3	Land 100:7
36:3 41:13 52:13	71:12	Incorporated 6:6,19	July 79:5	landfill 31:13,18,19,22
83:6	hereto 3:21 4:1	13:14 14:1	just 9:17 13:2 17:22	32:2 100:8,9
goes 25:4 35:14 70:11	hey 89:3,12	incorrect 98:6	21:5,19 22:14 27:21	landfills 15:20 32:6
71:13,16 78:13	hierarchy 98:21	independent 19:21	27:22 28:3 32:6,7,16	lapse 95:10
going 24:9,13 39:21	high 8:12,16	INDEX 2:12,15	44:23 45:1,20 46:11	Large 1:17 3:8 106:11
40:2 41:18 52:12	Highstar 7:6 13:18	indicate 93:19,23 96:11	47:20 49:19 54:19	107:21
57:2 67:7 78:20 85:4	him 13:2 24:19 42:4	indicated 61:18 65:23	60:17 65:15 76:3	last 8:4 12:16 29:1
86:23 98:20 101:11	44:12 45:22 47:22	indicates 94:22	77:14 78:6,9 80:23	34:13 46:16 54:15
good 31:23	48:4,17 49:19 50:19	Indicating 46:22	84:22 86:14 87:12	100:3
gotten 85:7 93:1	50:21 73:5,9 85:16	indication 62:10	88:18 91:23 92:6	later 47:2,22 90:2 95:7
government 74:17	86:15 89:3,6,15,19	individual 45:19 71:12	93:9 98:2,3,20	law 1:18 2:8 23:20 67:9
graduated 8:12	90:18	individual's 33:13	100:16 103:12	103:4
grants 7:17	hired 16:2 37:17,22	industry 93:7	<hr/>	laws 32:5
gross 14:9	75:6,9 101:20	information 27:9,18	K	lawsuit 24:8 42:9,11,12
group 7:5 39:22 40:7	hiring 23:14 54:2	30:17 31:1 58:4	keep 27:8,8	43:3 98:1
57:4 78:20	history 88:11	63:14 65:15 66:11	kept 38:15,21	lawsuits 43:6
guess 6:4 26:7 42:21	hit 103:17,18	67:1,10 73:22 91:20	key 45:22	lawyer 20:23 27:18
43:14,15 56:22 68:16	hold 93:21 105:5	104:22	kin 107:12	30:18 39:23 44:1,9
70:16 89:13 100:20	hoping 47:22 48:3	informed 42:4 45:2	kind 18:21 32:8 33:2	50:23 72:20
Guest 1:14 3:4 4:5,12	horizontal 33:2	46:5	39:23	lay 40:20
105:13 106:13	house 15:15	initials 52:5	knew 47:19 63:6,9	layman's 71:8

<p> leaning 49:19 leave 13:12 95:22 leaving 14:18 53:17 led 28:17 42:6 left 62:17 less 11:15 12:11 101:23 let 59:4 81:19 let's 26:6 99:9 liberty 41:10 license 30:6 74:15 licenses 9:5,6 lie 53:22 54:1 lied 53:16 lift 29:18 like 15:16,21 18:22 20:16 23:5 50:4 55:5 60:5 74:9 76:17 84:18 85:7 86:12 91:23 92:6 limited 64:20 lines 94:1 list 35:12 41:15 listed 35:15 litigation 13:5 96:22 little 51:3 live 4:15 lived 4:17,19 LLC 1:8,9 6:18 61:10 106:21,22 location 58:1 logo 54:20 long 4:17 5:21 10:13 11:3,17 12:13 21:5 91:14,17 93:5 longer 28:15 50:8,10 97:9 look 17:1 36:18,18 40:3 44:6 50:4 56:2 72:17 79:1 looked 48:10 looks 55:5 76:17 lose 87:1 lost 84:22 lot 6:12 50:15 84:16 88:14,21 100:21 Louis 20:16,17 21:6,8 22:19 34:21 54:19 72:7,12,15 97:10 Lowder 102:17 Ls 11:9 Luckily 19:4 </p>	<p> 78:12 80:6 95:15,16 95:18 makes 67:16 71:11 makeup 26:15,23 27:10 making 32:2 43:9 101:10 man 34:2,3 management 9:9 37:21 93:11 manager 11:11 12:1 31:12,16,18,21 32:13 78:15,16,17 98:23 99:16,17,18 100:7,8 managers 99:2 mandatory 104:6 manner 3:20 17:2 107:14 manual 77:3,23 many 7:2,8 9:22 13:22 14:3 43:6 87:19 99:2 99:19 100:10,18 105:19 March 21:10 22:19 27:1 31:5 61:19 62:7 64:11 marijuana 34:12 91:15 93:5 mark 39:21 57:3 marked 39:19 48:8 49:22 57:6 73:15 78:18,21 master's 7:22 matched 41:22 material 16:12 17:15 matter 25:15 98:14,18 103:18 106:16 matters 46:2 may 3:6,12,13,19 16:19 37:4,4 44:11 75:14 107:15 maybe 11:7 42:21 58:1 63:10 78:10 87:22 McNeal 1:18 2:4 mean 16:23 20:2 23:7 24:10,12,18 29:8 32:1,17 38:9 43:14 52:5,11,12 54:7 58:19 68:5,19,21 81:8 82:1,14 85:12 85:15,20 87:3 92:6 94:17,17 98:5 mechanism 84:5 medical 30:8,8 35:23 36:2 71:21 74:13 91:5 93:2,2 103:9,13 103:17,18 medication 35:11 memory 72:22 </p>	<p> mentioned 5:1 13:13 messages 95:22 met 13:2 Middle 1:2 107:2 miffed 69:7,11 might 38:9 43:13 53:23 mind 85:12,13 mine 89:22 minimum 94:13 minor 104:5,12 minute 105:6 Mississippi 14:7 43:18 misspelled 91:4 mix-up 71:14 Mobile 6:18 moment 57:8 money 15:11 84:23 Montgomery 6:15 66:2 months 21:23 26:11 more 20:6 88:21 89:21 90:20 100:21 101:23 most 7:4 43:6 MRO 20:16,17 21:6,8 22:19 34:21 35:9,14 35:16,21 54:20 71:14 72:5,7,12,16 83:12 83:17,21 84:3,6 86:8 93:3 96:11 97:10 much 103:5 105:3 must 67:13,14 </p>	<p> 44:22 73:21 74:7 102:14 Norrell 11:6,8 North 2:9 notation 69:19 nothing 4:8 106:15 notice 39:7 64:7,15 65:2 noticed 19:1 48:4 notified 72:5 notify 96:9 number 39:22 40:3 41:3,22 46:17 51:18 52:20 54:15 56:13 57:3 58:7 59:17 60:9 66:14 74:22 76:23 78:22 79:17 95:21 96:14,17 107:4 </p>	<p> 64:2,17 65:16 74:19 83:6,9,10 90:3,4 93:9 102:15 105:21 ones 14:19 88:22 only 21:13,21 24:20 34:17 49:14 67:4 70:22 80:15 81:8 88:2,5 102:15 Opelika 59:22 60:16,19 open-top 15:18 operate 14:4 15:19 27:15 operating 67:7 operation 11:23 31:13 88:8 operations 11:23 14:3 31:7,16 32:1,3 78:16 99:17,18 opiates 34:12 opinion 48:12,13 50:3 50:13 70:3,6,12,20 70:22 74:5 86:9 97:6 opportunity 52:6 option 89:20 order 95:21 origin 25:18 originally 60:15 other 3:10,14,20 6:2 8:18 14:15 15:11 24:8 25:7 29:21 33:4 33:5,13,22 34:23 36:17 47:8 48:21 50:2 58:3 63:19 67:6 78:10 81:12 98:16 102:13 out 27:7 30:15 35:7 44:5 45:21,22 46:1 49:19 58:17 59:1,5,6 60:18 77:2 90:17 91:1,9 92:18 105:2,2 107:10 outside 24:14 57:21 over 22:11 31:12,16 32:1 33:4,5 92:22 own 7:15,16 46:2 owned 7:5 13:14 owners 7:2 ownership 7:7 Oxford 8:22 </p>
<p> M </p>		<p> N </p>	<p> O </p>	<p> P </p>
<p> mad 69:12 made 3:11 36:8 90:17 104:11 make 5:7,8 15:10 28:4 36:6 41:19 43:14 45:18,19 46:2 50:4 </p>	<p> mechanism 84:5 medical 30:8,8 35:23 36:2 71:21 74:13 91:5 93:2,2 103:9,13 103:17,18 medication 35:11 memory 72:22 </p>	<p> name 4:11 13:17 22:5,6 33:13,23 37:2 41:22 43:23 44:2 46:16,16 54:15 57:22 61:9 91:4 100:4 102:18 named 13:8 national 25:18 nature 64:22 necessarily 68:20 need 3:11 41:10 45:18 45:19 49:8 56:2 needed 46:6 47:18 negative 19:23 47:3,7 48:10 73:13 82:11 90:3,6,20 91:7 95:1 95:17 neither 12:7 107:12 never 13:8 14:23 87:11 92:14 new 60:17 next 55:14 70:10 nighttime 96:17 nine 40:12 41:2 nobody 48:3 non 103:12 nondriver 103:13 None 11:2 18:2 27:4 </p>	<p> oath 51:14 object 14:12 24:9,13 44:11 53:19 63:23 69:4,13 81:2 87:5 89:5,8 objections 3:10,10 observation 75:1 obviously 8:12 81:5 off 11:22 52:13 62:17 65:19 101:11 102:3 offered 3:13 82:16 office 18:12 31:14 49:18 61:17 officer 35:23 91:5 Offices 1:18 Off-the-Record 40:5 51:5 52:16 65:20 66:19 102:4 105:8 Oh 66:15 93:9 okay 5:10,11 19:15 23:1 25:2 27:9 28:3 31:1,9 32:21 35:21 40:16 44:16 45:13,16 45:23 46:11 57:11 58:21 59:14,19 60:14 61:18,23 72:21,23 73:11 76:11,22 79:2 80:13,17,22 85:9 86:7,21 87:13,15,23 88:21 89:1 91:16 92:5,13 94:4,13,19 99:11 once 46:1 one 2:9 5:6 9:17 16:20 19:12,23 21:4 22:14 31:10,19 33:3,5 34:13,23 35:13,17,19 40:1 48:6 49:11 51:20 62:6,20 63:18 </p>	<p> packages 12:12 page 40:11 41:2 46:12 51:17,22 52:2,8,19 54:6,8 55:14 59:16 60:8 61:6,22 62:6,10 62:15 64:5 65:2,8 66:16 69:16 70:10,11 71:4 73:2,11,15,23 </p>

<p>74:6,22 76:2 79:17 79:18 pages 40:1 51:20 52:21 54:7 57:5 74:11 76:7 76:22 77:2,4,6,7,8,14 77:16,19,22 78:6,9 78:10,23 107:7 paid 15:12,15 paper 67:2 paperwork 17:1 parameters 104:6 parent 6:7 part 13:12 17:9 23:10 68:8 71:1 77:8 78:14 88:8 particular 63:17 Particularly 17:22 parties 3:3,17 4:1 107:10,13 parts 36:22 party 3:14,20 37:3 76:14 103:8,12 passed 20:7 23:19 82:6 past 88:11 pause 95:11 pay 85:17 101:23 pays 35:16 penalty 17:17 people 18:19 23:10 32:8 36:18 49:14 63:14 88:2,15 per 14:10 percent 101:4,5,7 percentage 7:9 101:2 period 21:13,15,20,21 person 29:12 48:9 90:23 103:17 personal 90:3 personally 13:4 23:21 41:21 personnel 2:17 24:2 38:14,21 54:2 58:20 59:6 77:16,20,23 105:1 persons 13:22 person's 33:22 43:23 44:2 phencyclidine 34:14 Phenix 47:20 Phillips 1:15 3:6 106:9 107:19 phone 96:17 physical 29:21 physician 90:4 pick 6:8 11:15 12:11 49:13 picking 15:14,16 pickup 33:17 piece 67:2</p>	<p>place 2:9 16:10 32:7 42:7 79:5,6 82:22 Plaintiff 1:6 2:2 106:18 Plaintiff's 2:15 39:19 39:21 40:3 41:3 51:18 52:8,20 54:6 57:3,6 58:7,10,11 59:17 60:8 64:6 65:3 65:8 66:16 71:4 72:18 73:12 74:11,22 76:2,7,22 78:18,22 79:17 played 17:9 please 4:11 40:6 57:10 69:16 70:20 79:1 plus 87:8 point 28:5 39:9 64:14 police 104:20,21 policies 16:5,9 52:1 64:21 policy 16:17 17:6,10 18:4,16 23:8,11,13 23:16 25:9,14 52:3,4 56:11,15 62:12,22 63:2 66:7,10 74:8 75:23 79:22 89:19 poor 19:8 27:14,16 portion 31:17 54:19 posed 21:17 position 11:10 16:11,13 33:14 53:15 58:18 59:2 100:15 105:17 positions 11:22 14:14 positive 14:2 17:17 18:9 19:23 27:7 30:14 34:19 35:3,19 36:22 37:20 41:6,14 41:17 42:5,23 43:4 44:21 46:22 47:17 49:13 54:13 72:4 80:4,19 81:9,13 83:1 83:23 86:15 87:2,12 87:21 88:15 90:1,10 90:13,19,23 91:2 93:18 96:7 98:4 102:11 105:14 potentially 96:1 poured 20:8 preemployment 19:17 48:7,8 50:1,5 prescription 35:4,11,13 35:15 presence 21:9 present 10:13 president 6:22 previous 37:6 previously 23:3,14 32:18 primary 12:18</p>	<p>prior 41:2 46:7 53:1 private 7:13 13:15 privy 63:13 probably 5:12 26:7 44:18 58:16 70:7 87:22 100:19,20,21 101:4 problem 84:20 85:2 procedure 3:5 19:10 72:6,7 82:22 procedures 36:15 process 19:9,14 36:23 professional 9:5 profits 13:20 program 23:18 promises 7:17 pronounce 34:13 proof 47:15 proper 23:22 101:17 properly 91:6 prospective 23:2 76:4 prove 83:3 proved 81:3 provide 39:23 43:23 44:8,12,14 67:10,13 67:14 provided 3:15,21 provider 36:2 71:21 publicly 7:10 Pullum 74:1 purpose 3:14 55:20 purposes 80:15,18,23 86:18 pursuant 1:14 3:4 pursuing 63:22 put 32:9 53:23 59:3 63:1 65:15 putting 62:21 66:6 p.m 1:20 69:21</p>	<p>read 5:9 55:4 69:22 reading 73:2 107:10 reads 75:5 really 45:20 83:3 89:2 reason 62:18,21 63:2,7 63:10,18 64:14 67:4 80:21 81:8 82:13,16 82:18,19,20 83:22 86:11,11,14 102:13 reasonable 86:17,22 87:4,6 89:3,6 reasons 67:6 Rebecca 60:10 61:11 recall 10:5 24:5 26:10 26:11 33:13,22 36:13 38:7 40:21 43:11,12 44:16 46:10 48:20 53:12 56:6 58:8 77:19,21 82:2 93:3 101:9 received 40:22 79:15 94:1,14 95:5 receiving 41:2 recognize 40:4,7 74:3 record 35:21 52:13,21 65:19 76:3,18,19 102:3,6 104:17 105:15 records 27:5,8 recourses 10:22 referenced 46:8 referring 54:10 reflect 79:22 refusal 56:16 regard 16:16 18:3,4 23:13 24:23 25:9 38:6 55:19,23 66:5 67:19 74:8 104:9 regarding 16:5 17:6 27:10 41:1 53:10 55:16 62:3 65:16 79:23 82:10 98:14,18 101:10 103:20 regardless 3:21 regulations 19:20 91:3 rehire 81:1 related 10:23 24:11,11 release 19:18 67:1 released 66:23 relevant 21:15,19 religion 25:17 remained 39:12 remarks 62:18 remember 42:10 101:14 repetitively 29:20 report 74:13 76:20 104:20,21 reported 19:6 106:12</p>	<p>Reporter 1:16 3:7 106:10 107:20 REPORTER'S 106:6 representation 95:18 representative 9:23 representing 3:3,17 reprimanded 23:21 request 83:7 85:21 86:5 90:12 requested 84:19 requesting 60:23 required 34:7 37:7 67:9 74:16 75:20,21 104:12 requirement 36:11 103:6 requirements 29:16,21 30:3 research 12:2 41:14 90:14 reserved 3:12 reside 68:17 residential 15:14 29:12 33:15,17 resigned 28:21,22 resolve 16:20 resource 9:9 resources 9:12,21 11:11 12:1 response 21:7 45:16 responsibility 84:8,9 89:11,14 result 81:9,10,14 results 19:5,22 107:14 resumed 51:8 resuming 51:13 retaliation 24:11 retested 20:12 retort 45:17 Reuben 102:17 revealed 37:19 revenue 14:10 Review 35:23 right 14:5 20:14,18 24:16 28:2,12 31:4 32:9 38:2 40:13 44:19 48:1 54:19 58:12 63:12 70:19 71:4,11,12 72:19 78:20 80:18 87:11 88:20 89:18 90:16 92:16 94:5 98:3 ring 34:15 rise 47:10 road 75:2,3,8,15,17 Robert 1:5 12:23 46:16 52:23 106:17 role 67:19 99:6,8 roughly 101:3</p>
---	---	---	--	---

<p> routes 47:19 Rs 11:9 rule 98:2 Rules 3:5 ruling 3:12 run 92:18 running 32:3 Russell 31:14 48:11 50:6 55:5 89:11 99:15 Russell's 55:6 </p> <hr/> <p style="text-align: center;">S</p> <p> safely 32:4 safety 21:17 22:4,7,11 22:14 48:9 77:2,11 77:23 78:15,16 89:22 89:23 90:15,17 92:21 93:4 104:14 105:18 105:19 SAITH 106:3 same 3:22 18:8 25:14 42:16 46:11 70:23 87:6 107:11 sample 20:9,11 35:14 83:7,13 84:4,12,19 84:23 86:7,8 89:17 93:20,23 94:5,14,23 96:2 samples 36:4 83:8,9 Saturday 19:4 saw 58:10 saying 27:13 42:15 48:8 56:4 85:23 87:9 87:23 91:22 says 48:5 61:21 62:14 69:20 70:17 73:23 93:21 scene 103:8 school 7:21 8:13,16 screen 34:11 46:8 47:11 screening 19:10 screens 19:5 34:8 46:12 sealed 83:10 second 34:11 49:22 52:14 73:12 82:10 83:12 90:11,12 91:10 section 60:5 61:2 79:18 security 41:21 54:14 see 23:3 26:6 35:17 55:1 58:9 61:1 63:14 66:12 73:17 seeing 58:8 seeking 103:13 seeks 103:9,16,18 seen 40:9 53:1 selection 52:8 send 50:19,21 66:11,21 </p>	<p> sending 63:5 senior 9:9 sent 19:18,20 20:23 39:3,10,15 53:2,5 60:18 62:2,16 66:1 70:8,9 separate 42:9 57:18 62:1 77:10,11 series 9:20 service 47:19 Services 1:8 2:18 5:18 5:19,22 6:1,6,15,18 6:23 7:10 10:1,18 11:1 13:14,23 15:3 15:10 106:20 set 107:10 Seven 11:4 several 11:22 16:23 73:17 Sexual 26:6,6 share 70:20 sheet 60:17 70:10,14,17 Sherry 60:10 64:23 shipments 11:16 shit 45:11 show 78:20 showing 42:2 48:6 102:9 shown 44:21 shows 91:7 sic 88:1 sign 19:17 56:12,16 79:14 signature 4:2 65:9 signed 56:19 61:10 62:7 64:9,11 65:14 91:5 94:6 signing 107:10 since 16:13 18:16 34:20 sir 4:11 5:14,16 6:11 7:12,14,20 8:14,20 9:18 10:8 12:4,6 13:1 13:7,11 14:17 15:2,4 15:6,9 16:1,3,7,10,14 17:8,11,16 18:6 21:3 22:13,15,21 23:6 24:1 25:8,17 26:4 27:6 28:8,11,14,23 29:6,10,23 31:11,20 32:23 33:19,21 34:1 34:16 35:1 36:5,14 37:13,15,18 38:13 39:2 40:10,19 41:4 43:22 44:10 46:14 47:13 48:16,18 50:18 50:22 51:16 52:4 53:4,8,14 54:12,17 54:23 55:3,5,8,10,13 55:18,21 56:3,8,10 </p>	<p> 56:14,18,21 57:1,10 57:13,19 58:5 59:4 59:10 60:7,12 61:3,5 61:8,14,21 62:5,9,14 62:23 63:3,20 64:1 64:10 65:11 66:9,20 67:3,5,12,14,22 68:1 69:16,23 70:2,5 72:6 73:3,6,10,16,18 74:2 74:4,10,18,21 75:5 75:10,19 76:1,6,14 76:21 77:6,9,11 78:2 78:4,7 79:8,10,13,21 80:2,8 82:5,12 83:5 83:15,19 87:14 89:9 93:12,14 95:13 96:21 96:23 97:2,7 98:15 99:14 100:14 101:13 101:15,21 102:2 103:22 104:10 sister 10:11 sit 12:21 site 11:11 15:17 situation 35:2 83:20 84:2 86:23 six 26:11 99:23 100:12 six-page 70:17 Smith 2:8 smoothly 32:4 social 41:21 54:14 Society 9:12 some 20:23 35:5 38:1 41:10,14 43:7 46:16 53:9 59:12 63:14 71:21 86:17 97:20 somebody 45:22 48:20 74:14 88:9,10 98:3 someone 33:16 37:10 37:16 69:1 86:22 93:2 something 13:15 20:16 26:18 41:19 45:11 55:1 84:17 94:8 Somewhere 99:23 sorry 39:14 60:22 76:9 99:7 100:3 sort 35:5,7 38:1 71:21 sounded 92:6 sounds 85:7 speak 4:7 33:7 106:14 speaking 93:18 special 35:16 specific 104:2 specifically 19:6 52:2 specimen 19:19 20:4 35:10 71:11,15 specimens 21:8 speculating 63:11 spirit 18:21 </p>	<p> split 83:7 84:3,12,19,23 86:7,8 89:16 96:1 spoke 38:8 spoken 36:10 38:4 64:2 St 20:16,17 21:6,8 22:19 34:21 54:19 72:7,12,15 97:10 stamped 40:1,11 51:17 52:19 54:8,9 57:5 59:16 78:23 stands 29:13 35:21 start 96:6 started 11:22 75:17 state 1:17 3:8 4:11 43:13 68:16 106:7,11 107:20 statement 58:18 59:2 98:8 statements 98:13 states 1:1 14:3 43:12 68:19 stations 32:19 Statute 3:15,21 stay 91:14,17 93:5 steps 81:20,22 still 42:2 44:20 45:14 51:14 91:8 stipulated 3:2,16,23 stipulation 1:15 3:1 stock 7:7,15,16,17 stopped 22:19 34:21 Strike 80:10 93:15 stuff 74:6 subject 19:16 subjected 36:12 submit 34:7 36:4 submitted 37:2 subsequently 102:22 subsidiaries 2:19 6:8 6:10 10:2,9,10 subsidiary 6:2 successfully 23:19 sudden 84:17 85:3 sued 13:5,6 suffer 80:3 sufficient 103:5 Suite 2:4,9 Sunflower 1:8 6:16 61:10 106:21 supervised 33:17 supervision 71:13 supervisor 11:23 33:15 100:16 supervisors 17:4,5 supposed 23:6 sure 5:7,8,8 25:19 26:21 28:4 29:19 30:16 32:3 41:11,13 41:19,23 45:19 46:2 </p>	<p> 50:20,22 52:11,15 66:13 68:4 71:9,11 88:17 surprised 69:7,10 sworn 4:7 106:14 system 20:7 27:12,14 27:17 30:20 41:23 45:21,22 91:10 92:18 93:6 Systems 11:13,14 12:9 12:10 </p> <hr/> <p style="text-align: center;">T</p> <p> tailgate 19:3 take 13:20 16:4,18 33:16 39:13 40:2 45:9 51:3 56:15 57:8 59:4,5 64:3 79:1 81:20,21 87:9 97:22 98:6 taken 1:14 3:4,6 35:10 47:2 73:13 75:16 83:8 85:22 86:19 87:3 91:11 98:13 takes 29:13 taking 35:11 47:11 51:10 92:1 talk 48:15,22 49:19 105:6 talked 14:14,19 32:18 talking 25:16 31:19 46:18 Tallassee 6:17 26:17,22 27:23 31:4 32:15,16 33:10 36:1 38:15,17 38:23 39:1,1,17 40:23 46:5 47:21 61:16 tell 6:14 8:21 14:6 20:22 22:22 28:20 31:9 37:1 40:4 57:8 65:12 70:22 87:2 89:3,19 104:3 telling 24:19 43:16 88:5 ten 11:18 87:22 88:2,5 tenure 79:7 term 29:8 62:1 terminate 46:6 90:18 terminated 14:16,21 20:13 23:3,15 26:13 42:1,22 43:1 45:21 46:3 56:12 61:19 62:11 63:16 66:6 81:9,14 88:3 102:1,8 termination 17:19 56:5 61:4,7 62:2,17 64:7 64:15,19 65:2 80:4 terms 71:8 </p>
--	---	---	---	---

test 14:22 18:9 20:1,16 21:8 35:19 37:20 42:14,16 46:22 47:22 48:4,10 49:22 50:1,5 54:13 69:20 71:6 72:4,22 73:13 75:2,3 75:8,15,17 80:4,20 81:9,10,13,22 82:11 83:12 84:1,7 85:22 87:12,21 90:2,6,11 90:12,19,21,23 91:2 91:6,10 93:18 95:1 95:12 102:11 104:7 105:14 tested 15:1,5 34:6,14 34:18 35:3 41:6,17 42:5 44:21 82:23 83:8,9,10 87:1 88:15 102:22 103:3 testified 4:8 9:22 53:3 72:2 80:1 92:14 97:8 testifying 102:19 testimony 37:14 53:13 55:15,19,22 56:6 65:22 66:5 82:3,9 101:9,14,16 103:20 testing 17:17 19:17,18 35:14,20 36:4 71:20 72:9 80:7 tests 41:15 42:23 90:3 102:9 Thank 105:3 their 18:20 30:3 34:7 35:18 36:4 37:2,3 57:22 58:1 68:21 83:3,12 84:8 87:1,2 89:13 thereof 107:14 thing 19:3 45:18 93:9 things 5:6 64:21 73:17 102:9 think 5:2 10:5 11:6 18:23 24:10 27:6 30:11 43:2,4,5,18 44:6,7 48:19 50:3 58:10,15,15 63:21 70:22 85:5,6,10,15 85:19 91:8 98:9 third 37:2 76:14 third-party 71:20 thought 21:14 three 6:13 12:14 19:23 21:23 92:18 96:5 through 19:9 20:7 21:10 27:1 31:5 39:12 40:1 41:20 52:21 57:5 72:17 74:11 78:23 96:12 throughout 87:19	throws 29:14 Thursday 1:19 107:5 till 68:12 time 3:12,12 10:7 13:2 16:2,2 17:12 18:22 18:23 21:14,15,20,21 23:12,12 36:20,21 42:3 43:19 48:3 51:7 53:6 54:8 67:15 87:6 91:10 95:10 96:4,6 99:13 times 9:22 87:19,22 title 25:19 32:11 33:6 99:15 100:6 Tobias 2:7 today 10:7 12:20,21 13:2 16:9 39:13 40:9 72:2 99:4 told 8:19 10:16 48:20 49:5,6 86:23 89:12 98:16,22 Tom 22:6,23 36:7,9 42:3 49:3 69:21 90:17 105:16 ton 20:4 top 73:23 touch 83:22 96:19 towed 103:7 traded 7:11 transcript 5:10 107:8 transfer 32:19 transportation 10:18 67:9 75:22 87:8 92:22 trash 15:21 treated 42:16 43:2 treatment 23:18 Trey 31:17 Trey's 100:3 trial 3:19 trigger 35:18 103:6 triggering 25:14 trouble 23:9 91:8 truck 12:3 29:12,15 36:11 101:12 103:15 103:16 truckdrivers 23:2,14 truckload 11:16 12:12 trucks 15:22 true 72:5 75:18 80:15 81:1,7 83:21 101:16 107:8 truth 4:7,7,8 106:14,15 106:15 trying 50:4 97:18 two 5:23 10:15 11:9,9 20:3 31:8 32:19 46:12 49:11,14,14 57:18 65:16 77:2,4,6	77:7,8,14,16,19 78:6 78:9 83:8,9 90:2,2 95:7 96:5 102:8 type 24:14 25:15,23 26:2,3,5 76:15 99:16 typed 41:22 typical 75:8,11,13,14 typically 77:22 U unable 73:1,4 under 51:14 62:18,22 63:2 71:12 91:2 94:8 103:4 understand 21:4 25:21 51:14 54:21 88:14 91:21 understanding 21:19 35:8,16 68:13,23 69:5 72:3 unemployment 67:20 68:9,11,14 69:2,8 UNITED 1:1 University 8:1,8,23 until 42:1 75:15 94:15 96:7 unusual 78:3,5,7,9 urine 20:8,9 Urrutia 6:19 use 18:5 23:4 79:23 used 3:14,20 21:6,7 82:4 92:10,14 using 20:21 22:19 34:21 60:17 88:3 97:10 U.S 107:1 V Van 31:11 32:11 98:23 vehicle 103:7 vendor 37:3 98:5 vendors 97:23 ver 94:17 verification 59:21 61:7 62:2,17 66:1 94:4,18 verified 21:1 73:14 94:15 95:7 verify 41:19 96:2 very 80:6 105:3 VII 25:19 violating 23:15 32:5 violation 62:11 66:7 Virginia 9:14 volunteered 91:19 vs 1:7 106:19 W wage 59:21 wait 95:20	waiting 96:1 waived 3:19 4:3 107:11 waiving 3:22 Walk 19:9 Wally 7:1 want 27:22 43:15 58:13 80:9,11,11,19 85:23 86:4,9 wanted 21:5 28:3 92:7 wasn't 48:2 49:23 Waste 1:9 6:16 37:20 61:10 93:11 106:22 watch 19:1 water 20:5,6,8 wavelengths 85:8 way 10:23 16:12,21 17:15 20:5 26:11 34:23 44:5 64:10 65:5 68:3 69:7 76:21 83:2,16 ways 11:19 16:23 19:23 20:3 week 75:6,8 weeks 47:2 90:2 weight 12:2 90:20 well 14:19 15:21 19:1,8 26:6 29:18 32:17,20 39:14 43:15,16 45:7 46:11 47:16 48:5 50:2 57:17 64:16,17 65:12 68:4 71:15 72:18 75:12 81:19 82:2,16,22 84:12,16 84:18 87:15 90:1,19 91:18 93:5,22 95:15 97:15 99:7 104:3 105:5 went 37:5 70:14 were 11:3,17 12:13 16:10 21:14,21 29:4 34:14 36:3,15,18 37:11 42:7,7,15 46:12 53:9 55:15 63:16 70:23 71:2 72:23 73:4,9 77:19 85:16 96:19 99:12,19 100:1,10,13,22 101:1 102:8 weren't 75:14 we'll 86:7,8 we're 23:19 25:15 31:19 32:4 46:11 51:13 52:17 67:9 102:5 we've 11:19 12:15 24:15 59:11 72:18 93:18 whatsoever 11:2 102:14	white 101:7 whole 4:7 19:2,10 59:8 59:12 78:5,11 106:15 wine 18:21 witness 4:1,2,6 24:17 53:21 105:7 107:9 woman 34:2 wondering 19:2 words 15:11 36:17 92:11 work 6:5 15:22 18:19 22:9 43:9 79:12 worked 10:19 13:9 24:3,3,8 25:7 26:1,9 26:16 28:9,12 38:15 59:5 93:11 99:20 100:11 working 28:15 45:14 45:20 99:9,16 workplace 77:3 79:19 works 15:7 49:17 56:23 wouldn't 33:5 68:8 98:6 101:17 write 54:22 57:20 writing 74:9 written 55:12 wrong 58:13 84:7,15 84:16 wrote 74:1,5 97:3 W-2 50:21 W-2s 64:21 X xeroxed 77:22 Y Yeah 10:4 14:7 25:3 44:14 46:19 53:21 59:13,13,15 66:16 69:14 91:9 92:16 99:22 105:7 year 11:7 14:10 29:2 years 4:18 5:23 10:15 11:4,18 12:14,16 87:8 91:13 92:22 Yellow 11:13,14 yesterday 53:3,10 65:22 66:17 80:1 97:8 98:12,22 young 45:6,9 y'all 50:19,21 105:20 Z zero 10:5 # #151 107:19 0
--	---	---	---	--

06 79:5	3			
07 22:20	3 2:18 78:18,22 79:17			
	3:07-CV-846-WKW			
1	1:7 107:4			
1 2:16 39:19,22 40:3	3:45 69:21			
41:3 51:18 52:9,20	30 93:8 101:4,5			
54:7 58:10,11	31 75:3			
10 1:19 46:15,17 47:7	32 40:2			
93:17 95:11,20 97:4	33 57:5			
107:5	35 101:4			
10th 27:1	35203 2:10			
10:00 1:22 51:10	36830 2:5			
103 79:17	39 2:16			
104 79:18				
105 2:13	4			
106 107:7	4 2:13			
11 1:21 34:10 46:9 47:1	45 59:17			
47:12 49:21 51:9				
94:22 95:15 107:5	5			
12 73:12 94:12 97:3	5/29/07 69:19			
12th 73:14 95:2,5	51 60:8			
125 78:23	52 61:6 62:15			
13 55:17 56:1,5,13 62:7	54 61:22 62:6,10			
64:16 65:15	56 64:5 65:2,8			
14 56:2,4,20	57 2:17			
14th 73:14 95:8	58 66:14,16			
15 88:2 100:21				
151 1:16 3:7 106:10	6			
1710 1:18 2:5	60 101:7			
18 4:18 51:17 52:8	64 69:16 70:11			
1819 2:9	65 101:7			
19 52:20,21	66 71:4			
1977 8:17	67 73:2			
1979 9:2	69 73:11,15 74:6			
2	7			
2 2:17 57:3,6 58:7	72 74:11			
59:18 60:9 64:6 65:3	74 74:11			
65:8 66:17 71:5	78 2:18 74:22			
72:19 74:12,22 76:2	79 76:2			
76:8,23				
2nd 94:15 107:15	8			
2/2/07 94:7	8 60:5			
2:15 1:20	80 76:7,9			
20 12:16 87:7 92:22	81 76:7,10			
100:21	82 11:20			
20-some-odd 88:1	86 76:22			
2007 21:10,10 27:1,1	87 76:22			
31:5,5 36:8 44:17				
61:19 62:7 64:12	9			
75:4 86:20 94:12	9 31:5 61:19 64:11			
97:3	9th 27:1			
20070202 69:21	9/30/08 107:19			
2008 1:20,21 51:9	90 57:5			
107:5,6,15	900 2:9			
22 27:1 31:5 52:21	91 78:23			
22nd 93:21 94:3,14				
28 54:6				
29 55:14				



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Birmingham District Office

December 20, 2007

Ridge Park Place

1130-22nd Street, South, Suite 2000

Birmingham, AL 35205

(205) 212-2100

TTY (205) 212-2112

FAX (205) 212-2105

Pamela Hayes
CONSTANGY BROOKS & SMITH, LLC
One Federal Place
Suite 900
1819 - 5th Avenue North
Birmingham, AL 35203

RE: Robert Cannon v. Sunflower Waste, LLC
EEOC Charge Number: 420-2007-03001

Enclosed please find the requested documents pursuant to your Section 83 Request. If we can assist you further, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Lindsey".

Kay Lindsey
Investigator Support Assistant



CONFIDENTIAL
ADS / CANNON
0001

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ROBERT CANNON

Plaintiff,

vs.

SUNFLOWER WASTE, LLC

Defendant.

]
]
]
]
]
]
]
]
]
]

C E R T I F I C A T I O N

I, Delner Franklin-Thomas, after being duly sworn on my oath, depose and say as follows:

1. I am the District Director of the Birmingham District Office of the Equal Employment Opportunity Commission (EEOC);

2. The Equal Employment Opportunity Commission is an agency of the United States of America charged with, "inter alia", the administration, interpretation and enforcement of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et. Seq.

3. Pursuant to its statutory authority, the EEOC receives and investigates charges of employment discrimination;

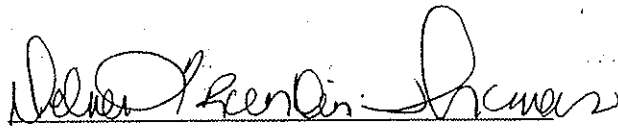
4. In the course of its investigations, the EEOC collects documents and compiles records;

5. I am custodian of all the records of this office;

6. I have reviewed the EEOC's investigative file of Robert Cannon v. Sunflower Waste, LLC, Charge No.: 420-2007-03001;

7. I have personal knowledge of the contents thereof;

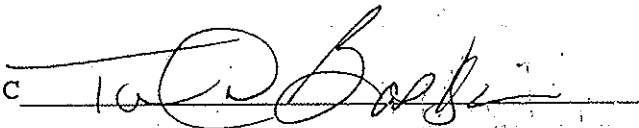
8. I hereby certify that the attached documents are true and correct copies of records which were compiled during the course of the investigation of the above mentioned charge.



Delner Franklin-Thomas
District Director
Birmingham District Office
Equal Employment Opportunity Commission

Sworn to and subscribed before me this the 20th day of December 2007.

NOTARY PUBLIC



My Commission Expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: May 8, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS

MAILING INSTRUCTIONS

CHARGE NO. 420-2007-03001

CHARGING PARTY

Name Mr. Robert Cannon

Street Address _____

City, State & Zip _____

Telephone No. (w/ area code) _____

CHARGING PARTY ATTORNEY

Name James B. Douglas, Jr., Atty

Firm McNeal & Douglas

Street Address Post Office Box 1423

City, State & Zip Auburn, Al. 36630

Telephone No. (w/ area code) (334) 821-1596

Correct name and address of Respondent and Respondent's Representative to whom correspondence (decision, etc.) should be mailed:

Sunflower Waste LLC
115 Herrin Hill Road
Tallassee, Al 36078
(334) 252-0458

If there is an attorney, other than Respondent's Representative named above, give correct name, firm, and address. (If the attorney is not an "in house" attorney, give name of a Respondent Representative (above) to whom copies should be mailed.)

J. Tobias Dyke, Atty
Constangy, Brooks & Smith LLC
One Federal Place
1819 - Fifth Avenue, North Suite 900
B'ham, Al. 35203 (205) 226-5469

If any of the above information has changed since the investigation, provide the most current information below (include names, addresses, zip codes, and telephone numbers where it is indicated above.)

Coding Information:

CLR-C. P. Legal Representative
CPR-CP Representative
CPC-Contact Information

RLR-Legal Representative
RPC-Contact Information
ROF-Requesting Official

CASE LOG

(Continue on Reverse)

Charge No.		Respondent	Charging Party	
420-2007-03001				
Date	Action	Entered	Reviewed/	
6-19-07	Received case file today,	(bmc)		
7-9-07	Prepared mailing sheet + Lab file, + analyzed documents. PS was due on 6-22-07			
7-13-07	Called CP's atty. to Analyzed + reviewed evidence with him. Left message for him to call me	(bmc)		
7-17-07	Called CP's Atty, spoke with paralegal today, reviewed evidence gathered during investigation See Lab C. She did not submit any additional information to The Commission			
7-17-07	Submitted case file to Supervisor for review + final approval	(bmc)		

CASE LOG

(Continue on Reverse)

[illegible]

EEOC Form 161 (3/98)

U.S. FEDERAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Robert Cannon
426B Tommer Court
Opelika, AL 36801

From: Birmingham District Office
Ridge Park Place
1130 22nd Street, South
Birmingham, AL 35205



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420-2007-03001

Ollie M. Croom,
Investigator

(205) 212-2140

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Delner Franklin-Thomas

Delner Franklin-Thomas,
District Director

8/27/7

(Date Mailed)

Enclosures(s)

cc: Sunflower Wast LLC
115 Herrin Hill Road
Tallassee, AL 36078

J. Tobias Dykes, Attorney
Constangy, Brooks, & Smith LLC
One Federal Place
1819 Fifth Avenue, North Suite 900
Birmingham, AL 35203

James B. Douglas, Jr., Attorney
McNeal & Douglas
Post Office Box 1423
Auburn, AL 36630

CONFIDENTIAL
ADS / CANNON
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Enclosure with EEOC
Form 161 (3/98)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02** -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

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ADS / CANNON
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CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

CHARGE NUMBER

☐

FEPA

☒

EEOC

420-2007-03001

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Mr. Robert Cannon

HOME TELEPHONE (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

DATE OF BIRTH

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Sunflower Waste, LLC

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

334.252.0458

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

115 Herrin Hill Road, Tallassee, AL 36078

Macon

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☒

RACE

☐

COLOR

☐

SEX

☐

RELIGION

☐

AGE

☐

RETALIATION

☐

NATIONAL

☐

DISABILITY

☐

OTHER (Specify)

ORIGIN

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On March 9, 2007, I was unjustly terminated by Sunflower Waste, LLC. I believe my termination was based upon race, because the reason I was given, failure of a drug screen, was false. Sunflower Waste, LLC falsified and fabricated the reason for my termination, as I have documented proof that my drug screen, for which Sunflower Waste, LLC, claims I was terminated, was, in fact, negative. I was qualified to perform the work I was doing, I was terminated unjustly, and, upon information and belief, the person who took over my duties was not a minority. Therefore, I believe my termination was based on my race.

RECEIVED

MAY 10 2007

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

5-14-07

Date

Robert Cannon

Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

14, MAY 2007

EEOC FORM 131 (5/01)

U.S. Equal Employment Opportunity Commission

Becky Bruner
Controller
SUNFLOWER WASTE, LLC
P. O. Box 781150
Tallahassee, AL 36078

PERSON FILING CHARGE

Robert Cannon

THIS PERSON (check one or both)

☒ Claims To Be Aggrieved☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

420-2007-03001

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

☒ Title VII of the Civil Rights Act☐ The Americans with Disabilities Act☐ The Age Discrimination in Employment Act☐ The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☐ No action is required by you at this time.2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.3. ☒ Please provide by **22-JUN-07** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.4. ☐ Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.5. ☒ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by **13-JUN-07** to **Debra B. Leo, ADR Coordinator, at (205) 212-2033**.
If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Aaron N. Hallaway,
Intake Supervisor

EEOC Representative

Telephone **(205) 212-2123**

Birmingham District Office
Ridge Park Place
1130 22nd Street, South
Birmingham, AL 35205

Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☐ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

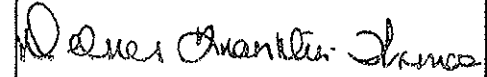
Date

May 22, 2007

Name / Title of Authorized Official

Delner Franklin-Thomas,
District Director

Signature



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0010

Enclosure with EEOC
Form 131 (5/01)

INFORMATION ON CHARGES OF DISCRIMINATION

EEOC RULES AND REGULATIONS

Section 1601.15 of EEOC's regulations provides that persons or organizations charged with employment discrimination may submit a statement of position or evidence regarding the issues covered by this charge.

EEOC's recordkeeping and reporting requirements are found at Title 29, Code of Federal Regulations (29 CFR): 29 CFR Part 1602 (see particularly Sec. 1602.14 below) for Title VII and the ADA; 29 CFR Part 1620 for the EPA; and 29 CFR Part 1627, for the ADEA. These regulations generally require respondents to preserve payroll and personnel records relevant to a charge of discrimination until disposition of the charge or litigation relating to the charge. (For ADEA charges, this notice is the written requirement described in Part 1627, Sec. 1627.3(b)(3), .4(a)(2) or .5(c), for respondents to preserve records relevant to the charge – the records to be retained, and for how long, are as described in Sec. 1602.14, as set out below). Parts 1602, 1620 and 1627 also prescribe record retention periods – generally, three years for basic payroll records and one year for personnel records. Questions about retention periods and the types of records to be retained should be resolved by referring to the regulations.

Section 1602.14 Preservation of records made or kept. Where a charge ... has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent ... shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or action. The term *personnel records relevant to the charge*, for example, would include personnel or employment records relating to the aggrieved person and to all other aggrieved employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates or the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring [a lawsuit] or, where an action is brought against an employer either by the aggrieved person, the Commission, or the Attorney General, the date on which such litigation is terminated.

NOTICE OF NON-RETALIATION REQUIREMENTS

Section 704(a) of Title VII, Section 4(d) of the ADEA, and Section 503(a) of the ADA provide that it is an unlawful employment practice for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against any individual, or for a union to discriminate against its members or applicants for membership, because they have opposed any practice made an unlawful employment practice by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the statutes. The Equal Pay Act contains similar provisions. Additionally, Section 503(b) of the ADA prohibits coercion, intimidation, threats, or interference with anyone because they have exercised or enjoyed, or aided or encouraged others in their exercise or enjoyment, of rights under the Act.

Persons filing charges of discrimination are advised of these Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made. Please note that the Civil Rights Act of 1991 provides substantial additional monetary provisions to remedy instances of retaliation or other discrimination, including, for example, to remedy the emotional harm caused by on-the-job harassment.

NOTICE REGARDING REPRESENTATION BY ATTORNEYS

Although you do not have to be represented by an attorney while we handle this charge, you have a right, and may wish to retain an attorney to represent you. If you do retain an attorney, please give us your attorney's name, address and phone number, and ask your attorney to write us confirming such representation.

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0011

13

LAW OFFICES OF
McNEAL & DOUGLAS
ATTORNEYS AT LAW, L.L.C.
A LIMITED LIABILITY COMPANY
COMPOSED OF PROFESSIONAL CORPORATIONS

TELEPHONE
(334) 821-1596
FAX
(334) 821-9346

MARRELL J. McNEAL, ATTORNEY AT LAW, P.C.
JAMES B. DOUGLAS, JR., ATTORNEY AT LAW, P.C.

1710 CATHERINE COURT
SUITE B
POST OFFICE BOX 1423
AUBURN, ALABAMA 36830

August 9, 2007

EEOC
Attn: Debra B. Leo
Ridge Park Place
1130 22nd Street South
Suite 2000
Birmingham, AL 35205

RE: Robert Cannon

Dear Ms. Leo:

420-2017-03001

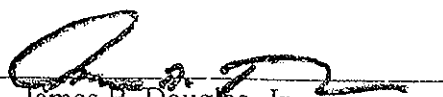
On June 7, 2007, I sent you a letter, indicating that my client was not interested in mediating at this time. Since then, I have spoken to my client and he indicates that he would be amenable to mediation, if the opposing party would be also. If it is not too late to conduct a mediation, we would be willing to cooperate in that regard.

If you have any questions, please do not hesitate to contact me.

Sincerely,

McNEAL & DOUGLAS,
ATTORNEYS AT LAW, L.L.C.

BY


James B. Douglas, Jr.

JBD/fla

LAW OFFICES OF

McNEAL & DOUGLAS

ATTORNEYS AT LAW, L.L.C.

A LIMITED LIABILITY COMPANY

COMPOSED OF PROFESSIONAL CORPORATIONS

MARRELL J. McNEAL, ATTORNEY AT LAW, P.C.

JAMES B. DOUGLAS, JR., ATTORNEY AT LAW, P.C.

1710 CATHERINE COURT

SUITE B

POST OFFICE BOX 1423

AUBURN, ALABAMA 36830

TELEPHONE
(334) 821-1596
FAX
(334) 821-9346

May 16, 2007

EEOC
Ridge Park Place
1130 22nd Street South
Suite 2000
Birmingham, AL 35205

RE: Robert Cannon

Dear Sir or Madam:

Enclosed is a Charge of Discrimination form regarding Robert Cannon. My office is representing Mr. Cannon. I look forward to receiving report of your investigation.

If you have any questions, please do not hesitate to contact me.

Sincerely,

McNEAL & DOUGLAS,
ATTORNEYS AT LAW, L.L.C.

BY


James B. Douglas, Jr.

JBD/lcw

Enclosure

MAY 16 2007

CONFIDENTIAL
ADS / CANNON
0013

CONSTANGY
BROOKS & SMITH, LLC

ONE FEDERAL PLACE
SUITE 900
1819 FIFTH AVENUE NORTH
BIRMINGHAM, ALABAMA 35203
FACSIMILE (205) 323-7674
www.constangy.com
tdykes@constangy.com
205-226-5469

June 29, 2007

Ollie Croom
Investigator
U.S. Equal Employment Opportunity Commission
Birmingham District Office
1130 22nd Street, South
Birmingham, Alabama 35205

Re: Robert Cannon, Charging Party
Advanced Disposal Services, Respondent
Charge No. 420-2007-03001

Dear Ms. Croom:

This letter will serve as the response of Respondent Advanced Disposal Services ("ADS") d/b/a Sunflower Waste to the charge of discrimination filed by Robert Cannon.¹ ADS denies that it discriminated against Mr. Cannon on the basis of his race in violation of Title VII. Accordingly, ADS asks that the Commission issue a no-cause finding and dismiss Mr. Cannon's charge.

A. COMPANY BACKGROUND AND POLICY INFORMATION

ADS provides waste management services throughout the Southeast including Alabama. In Alabama, ADS does business as Sunflower Waste, but the

¹ The information contained in this letter, and the accompanying materials submitted herewith, have been provided to the Equal Employment Opportunity Commission upon the condition that all such information and material, as well as the names and identities of any individuals mentioned therein, shall be kept strictly confidential. The following information and material has been prepared for the sole and express purpose of "conference, conciliation and persuasion" as contemplated by 29 C.F.R. Section 1601.26(a) of the EEOC's Title VII and ADA Procedural Guidelines. The information and material contained in this letter is additionally subject to the confidential material disclosure provisions set forth in Sections 83.6(b)(1) and (5) of the EEOC's Compliance Manual, as well as the exception to disclosure requirements of the Freedom of Information Act, codified at 5 U.S.C. Section 552(b)(7). Respondent reserves the right to supplement this letter when necessary and as additional information becomes available.

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ADS / CANNON
0014

June 27, 2007

Page 2

employees are ADS employees. ADS is an Equal Employment Opportunity employer that prohibits discrimination on any basis protected by the law. (ADS' EEO Policy is attached as Exhibit 1).

B. MR. CANNON'S EMPLOYMENT

Mr. Cannon was a driver for Waste Management, Inc. in Opelika, Alabama in December 2007. However, ADS, through Sunflower Waste, bid and received the municipal contract on which Mr. Cannon worked. Because Mr. Cannon and the other Waste Management drivers knew the routes for the municipal contract, ADS encouraged Mr. Cannon and the other drivers to apply for jobs with ADS. As a result, Mr. Cannon submitted an application to ADS on January 22, 2007 to work as a driver. (Mr. Cannon's Employment Application is attached as Exhibit 2). ADS hired Mr. Cannon on January 22, 2007, and provided him with a copy of the ADS Employee Handbook. (Acknowledgment of Receipt of Employee Handbook is attached as Exhibit 3).

C. MR. CANNON FAILS HIS DRUG TEST

ADS' Drug Free Workplace policy provides in part as follows:

All applicants considered final candidates for a position may be tested for the presence of drugs as part of the application process. Any applicant refusing to submit to a pre-employment drug test will be ineligible for hire. If an applicant's test is confirmed positive, the applicant will not be considered for employment at that time and will be informed that he or she has failed to meet employment standards.

....

In the case of a violation of the Company policy, including a positive drug or alcohol test result, you will be subject to discipline up to and including discharge.

(Drug Free Workplace Policy is attached as Exhibit 4). Pursuant to DOT regulations and its Drug Free Workplace Policy, ADS requires all new hires to take and pass a drug test. Drivers, like Mr. Cannon, who had been working for Waste Management, which had a DOT alcohol and drug testing program, were allowed to begin driving for ADS before ADS received the pre-employment drug test results.

Mr. Cannon signed an Alcohol and/or Drug Test Notification on January 22, 2007, indicating that he would be taking a drug test that would be administered in compliance with the Federal Motor Carrier Safety Regulations; on January 22, 2007

June 27, 2007

Page 3

at 2:00 p.m. (Alcohol and/or Drug Test Notification attached as Exhibit 5). Mr. Cannon took his drug test on January 22, 2007. Mr. Cannon failed his pre-employment drug screen test because he tested positive for cocaine.² (A copy of the drug test results are attached as Exhibit 6). Therefore, Mr. Cannon's employment was terminated on March 9, 2007 for violation of the drug and alcohol policy.³ (Final Clearance for Terminating Employee attached as Exhibit 7). William Perry, Jr. (BM) replaced Mr. Cannon.

D. CHARGE OF DISCRIMINATION

On May 14, 2007, Mr. Cannon filed a Charge of Discrimination, alleging that ADS terminated his employment because of his race in violation of Title VII. Specifically, Mr. Cannon alleges that the test results were fabricated; however, there is no evidence that the positive drug test for cocaine was fabricated. (EEOC Charge is attached as Exhibit 8).

E. DISCUSSION OF THE CHARGE

As the above discussion makes clear, Mr. Cannon's allegations do not amount to a claim of actionable discrimination and his Charge should be dismissed with a no-cause finding. Because there is no direct evidence of discrimination, Mr. Cannon must demonstrate that (1) he is in a protected class; (2) he was qualified to perform his job; (3) his employment was terminated; and (4) some evidence creating an inference of race discrimination. Knight v. Baptist Hosp. of Miami, Inc., 330 F.3d 1313, 1316 (11th Cir. 2003). If a plaintiff establishes his *prima facie* case, then the employer must articulate a legitimate, nondiscriminatory reason for its decision or actions. Lee v. GTE Florida, Inc., 226 F.3d 1249, 1253 (11th Cir. 2000). To ultimately prevail, the plaintiff must then show that the employer's articulated reason was false and that the real reason was the plaintiff's race. Id.; St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 515, 519 (1993). A common method of establishing the fourth prong of the *prima facie* case is evidence that the employer replaced the plaintiff with someone outside of the protected class. Walker v. Nationsbank of Florida, 53 F.3d 1548, 1556 (11th Cir. 1995). Alternatively, a plaintiff can demonstrate that a similarly-situated employee outside of the protected class was treated more favorably. Knight, 330 F.3d at 1316.

² The confirmation of the drug test misstates Mr. Cannon's name as Mr. Rannon, but the social security number and date of birth on the results are Mr. Cannon's.

³ There was a delay between the confirmation of the failed drug test and the discharge because Mr. Cannon took a second drug test on February 12, 2007, which was almost three weeks after the initial sample was taken. Mr. Cannon passed the second test. However, ADS policy provides that a failed drug test is grounds for discharge, so Mr. Cannon was discharged for failing his initial drug test.

June 27, 2007

Page 4

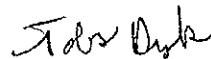
While Mr. Cannon is a member of a protected class and was discharged, he was not qualified to perform his job because he did not pass his drug test. Further, there is no inference of discrimination. First, William Perry, Jr., a black male, replaced plaintiff. Second, no drivers in Alabama since December 1, 2006 have failed a drug test and remained employed with or been hired by ADS. As such, Mr. Cannon cannot demonstrate that a similarly situated employee was treated more favorably than him. Therefore, Mr. Cannon cannot prove an inference of discrimination, and his Charge is due to be dismissed.

Even if Mr. Cannon could prove a *prima facie* case of discrimination, ADS terminated Mr. Cannon's employment for a legitimate, nondiscriminatory reason: a **failed drug test**. Further, there is no evidence of pretext in ADS' decision to terminate Mr. Cannon's employment for failing his drug test by testing positive for cocaine. As such, Mr. Cannon's Charge is due to be dismissed.

F. CONCLUSION

For all of the reasons addressed herein, Mr. Cannon cannot establish his discrimination claim. Accordingly, Advanced Disposal Services respectfully requests that the EEOC issue a no-cause finding and dismiss Mr. Cannon's Charge. If you have any questions or need further information, do not hesitate to contact me.

Sincerely,



J. Tobias Dykes

JTD/mb
Enclosures

EMPLOYMENT POLICIES

Equal Opportunity Employer

It is the intent of the Company to attract and retain the best qualified people available, and we will not discriminate in employment on the basis of race, color, religion, national origin, sex, marital status, status as a disabled veteran or veteran of the Vietnam era, age, or disability.

This policy applies to all employment decisions with all employees and applicants. It includes recruitment, hiring, compensation, promotion, transfer, training, demotion, layoff, recall and all other terms and conditions of employment.

Any employee who feels that he or she has not been treated in accordance with this policy should contact their supervisor or any member of management in order to discuss this matter.

Harassment

GENERAL HARASSMENT POLICY

Advanced Disposal Services is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, we will not tolerate harassment of Advanced Disposal Services employees by anyone, including any supervisor, co-worker, vendor, contractor or other regular visitor of the Company.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as sex, color, race, religion, ancestry, national origin, age, disability, or other legally protected group status. Advanced Disposal Services will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment.

The conduct forbidden by this policy specifically includes, but is not limited to: (a) epithets, slurs, negative stereotyping, or intimidating acts that are based on a person's protected status; and (b) written or graphic material circulated or posted within the workplace that shows hostility toward a person or persons because of their protected status.

Sexual harassment deserves special mention. Unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the conduct has the purpose or effect of unreasonably

DRIVER'S APPLICATION FOR EMPLOYMENT

Company: Sunflower Waste
Russell Davis
 Address: 1303 Washington Blvd.
Tallahassee, Alabama 36078
 City: (866) 252-0488 Zip: _____

(Answer all questions - please print)

In compliance with Federal and State equal employment opportunity laws, qualified applicants are considered for all positions without regard to race, color, religion, sex, national origin, age, marital status, veteran status, non-job related disability, or any other protected group status.

Date of application: 1-22-07

Position(s) Applied for: DRIVER
 Name: CANNON ROBERT JAMES Social Security No. _____
 Last First Middle

List your addresses of residency for the past 3 years.

Current Address: _____
 Street: _____ City: _____
 State: AL Zip Code: 36801 Phone: _____ How Long? 1 yr
 Previous Address: _____
 Street: _____ City: _____ State & Zip Code: _____ How Long? yr/mo.
 Street: _____ City: _____ State & Zip Code: _____ How Long? yr/mo.
 Street: _____ City: _____ State & Zip Code: _____ How Long? yr/mo.

Do you have the legal right to work in the United States? YES

Date of Birth: 12-1-59 Can you provide proof of age? YES
 (Required for Commercial Drivers)

Have you worked for this company before? NO Where? _____

Dates: From _____ To _____ Rate of Pay _____ Position _____

Reason for leaving: _____

Are you now employed? NO If not, how long since leaving last employment? 1 MONTH

Who referred you? FRIEND Rate of pay expected _____

Have you ever been bonded? _____ Name of bonding company: _____
 (Answer only if a job requirement)

Have you ever been convicted of a felony? _____

If yes, please explain fully on a separate sheet of paper. Conviction of a crime is not an automatic bar to employment; all circumstances will be considered.

Is there any reason you might be unable to perform the functions of the job for which you have applied (as described in the attached job description)?

If yes, explain: If you wish

EXPERIENCE AND QUALIFICATIONS - OTHER

SHOW ANY TRUCKING, TRANSPORTATION OR OTHER EXPERIENCE THAT MAY HELP IN YOUR WORK FOR THIS COMPANY

I CAN OPERATE FRONT LOADER, SIDE LOADER, ONE ARIE LOADER, REAR LOADER, ETC.

LIST COURSES AND TRAINING OTHER THAN SHOWN ELSEWHERE IN THIS APPLICATION

LIST SPECIAL EQUIPMENT OR TECHNICAL MATERIALS YOU CAN WORK WITH (OTHER THAN THOSE ALREADY SHOWN)

TO BE READ AND SIGNED BY APPLICANT

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

I authorize you to make such investigations and inquiries of my personal, employment, financial or medical history and other related matters as may be necessary in arriving at an employment decision. (Generally, inquiries regarding medical history will be made only if and after a conditional offer of employment has been extended.) I hereby release employers, schools, health care providers and other persons from all liability in responding to inquiries and releasing information in connection with my application.

In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in discharge. I understand, also, that I am required to abide by all rules and regulations of the Company.

1-22-07

DATE

Robert H. Cannon

Applicant's Signature

PROCESS RECORD

APPLICANT HIRED _____ REJECTED _____

DATE EMPLOYED _____ POINT EMPLOYED _____

DEPARTMENT _____ CLASSIFICATION _____

(If REJECTED, SUMMARY REPORT OF REASONS SHOULD BE PLACED IN FILE)

THIS SECTION TO BE FILLED IN BY RESPONSIBLE OFFICER OR COMPANY REPRESENTATIVE

	SUPERIOR	GOOD	FAIR	BELOW AVERAGE	POOR	WRITTEN RECORD ON FILE
1. APPLICATION						
2. INTERVIEW						
3. PAST EMPLOYMENT						
4. WRITTEN EXAM						
5. ROAD TEST						
6. CRIMINAL AND TRAFFIC CONVICTIONS						

SIGNATURE OF INTERVIEWING OFFICER _____

TRANSFERS

FROM: _____ TO: _____

DATE: _____ DATE: _____

REASON FOR TRANSFER: _____ REASON FOR TRANSFER: _____

FROM: _____ TO: _____

DATE: _____ DATE: _____

REASON FOR TRANSFER: _____ REASON FOR TRANSFER: _____

TERMINATION OF EMPLOYMENT

DATE TERMINATED _____ DEPARTMENT RELEASED FROM _____

DISMISSED _____ VOLUNTARILY QUIT _____ OTHER _____

TERMINATION REPORT PLACED IN FILE _____ SUPERVISOR _____

PAGE 4 766 (Rev. 4/92) 101

ACCIDENT RECORD FOR THE PAST 5 YEARS (NAME) (ATTACH SHEET IF MORE SPACE IS NEEDED) IF NONE, WRITE NONE

DATES	NATURE OF ACCIDENT (HEAD-ON, REAR-END, UPSET, ETC.)	FATALITIES	INJURIES
LAST ACCIDENT			
NEXT PREVIOUS			
NEXT PREVIOUS			

TRAFFIC CONVICTIONS AND FORFEITURES FOR THE PAST 5 YEARS (OTHER THAN PARKING VIOLATIONS) IF NONE, WRITE NONE

LOCATION	DATE	CHARGE	PENALTY

(ATTACH SHEET IF MORE SPACE IS NEEDED)

EDUCATION

CIRCLE HIGHEST GRADE COMPLETED: 1 2 3 4 5 6 7 8 HIGH SCHOOL: 1 2 3 4 COLLEGE: 1 2 3 4

LAST SCHOOL ATTENDED (NAME) GEA (CITY)

EXPERIENCE AND QUALIFICATIONS - DRIVER

DRIVER LICENSES	STATE	LICENSE NO.	TYPE	EXPIRATION DATE
	<u>AL</u>		<u>CLASS A</u>	<u>6-8-08</u>

A. Have you ever been denied a license, permit or privilege to operate a motor vehicle? YES _____ NO X

B. Has any license, permit or privilege ever been suspended or revoked? YES _____ NO X

IF THE ANSWER TO EITHER A OR B IS YES, GIVE DETAILS _____

DRIVING EXPERIENCE IF NONE, WRITE NONE

CLASS OF EQUIPMENT	TYPE OF EQUIPMENT (VAN, TANK, FLAT, ETC.)	FROM	DATES TO	APPROX. NO. OF MILES (TOTAL)
STRAIGHT TRUCK	<u>X</u>			
TRACTOR AND SEMI-TRAILER	<u>X</u>			
TRACTOR - TWO TRAILERS				
MOTORCOACH - SCHOOL BUS				
OTHER				

LIST STATES OPERATED IN FOR LAST FIVE YEARS _____

SHOW SPECIAL COURSES OR TRAINING THAT WILL HELP YOU AS A DRIVER: _____

WHICH SAFE DRIVING AWARDS DO YOU HOLD AND FROM WHOM? _____

PAGE 3 16F (Rev. 5/02) X01

EMPLOYMENT HISTORY

All driver applicants to drive in interstate commerce must provide the following information on all employers during the preceding 3 years. List complete mailing address, street number, city, state and zip code.

Applicants to drive a commercial motor vehicle in intrastate or interstate commerce shall also provide an additional 7 years information on those employers for whom the applicant operated such vehicle.

(NOTE: List employers in reverse order starting with the most recent. Add another sheet as necessary.)

EMPLOYER		DATE	
NAME	WASTE MANAGEMENT	FROM MO. 2 YR. 01	TO MO. 12 YR. 07
ADDRESS	4210 1861 Rd. 183	POSITION HELD	DRIVER
CITY	OPELIKA	STATE	AL ZIP 36801
CONTACT PERSON	LEWIS AUBREY	SALARY/WAGE	\$127.00 DAY RATE
	PHONE NUMBER	REASON FOR LEAVING	LACK OF WORK
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME	LESLIE MILLS	FROM MO. 9 YR. 98	TO MO. 2 YR. 00
ADDRESS	244 Ave	POSITION HELD	ASSIST. SUPERVISOR
CITY	OPELIKA	STATE	AL ZIP 36801
CONTACT PERSON	SOLD OUT	SALARY/WAGE	\$12.75
	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME	HE W. WOODWARD	FROM MO. 2 YR. 80	TO MO. 9 YR. 90
ADDRESS	LAFAYETTE Mill	POSITION HELD	LABOR
CITY	OPELIKA	STATE	AL ZIP 36801
CONTACT PERSON		SALARY/WAGE	\$12.50
	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME		FROM MO. YR.	TO MO. YR.
ADDRESS		POSITION HELD	
CITY	STATE ZIP	SALARY/WAGE	
CONTACT PERSON	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME		FROM MO. YR.	TO MO. YR.
ADDRESS		POSITION HELD	
CITY	STATE ZIP	SALARY/WAGE	
CONTACT PERSON	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

EMPLOYER		DATE	
NAME		FROM MO. YR.	TO MO. YR.
ADDRESS		POSITION HELD	
CITY	STATE ZIP	SALARY/WAGE	
CONTACT PERSON	PHONE NUMBER	REASON FOR LEAVING	
DID YOU DRIVE A VEHICLE REQUIRING A CDL? <input type="checkbox"/> YES <input type="checkbox"/> NO			

*Includes vehicles having a GVWR of 26,001 lbs. or more, vehicles designed to transport 15 or more passengers, or any size vehicle used to transport hazardous materials in a quantity requiring placarding.

ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK

This will acknowledge that I have received my copy of Advanced Disposal Services Employee Handbook. I have read it and been given the opportunity to ask questions that I may have concerning any of the Company's policies and procedures.

I understand that this Handbook represents only current policies, regulations, and benefits, and that it does not create a contract of employment. The Company retains the right to change these policies, procedures and benefits, as it deems advisable.

I understand that I am an "at will" employee. I have the right to terminate my employment at any time, with or without cause, and that the Company has a similar right. I further understand that my status as an "at will" employee may not be changed except in writing signed by the President of the Company. Nothing in this Handbook is intended to void my "at will" status.

I understand that I am employed subject to a 90-calendar-day introductory period. I understand that I may be required to reimburse the Company for the cost of any uniforms I received if I voluntarily resign during the introductory period.

I understand that under circumstances as outlined in the Drug and Alcohol policy, I will be subject to physical examination, including a hair, blood and/or urine analysis by qualified personnel.

PRINTED FULL NAME: Robert Cannon

SIGNATURE: Robert Cannon

DATE: 1-22-07

NOTE: This form should be signed, detached and returned to your supervisor or human resources administrator within three (3) days after receiving your Employee Handbook.

This fax was received by GFI FAXmaker fax server. For more information, visit: <http://www.gfi.com>

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Customer Relations

The Company expects all employees who interact in any manner with customers to be responsive to their requests and treat them with respect. Do not hesitate to ask your supervisor for assistance if a customer becomes abusive or irate, if the customer specifically asks to speak with a supervisor or manager or if you feel more confident having your supervisor or a manager assist the customer.

Dress and Appearance

The image of the Company is influenced by the appearance of its employees. We are all expected to practice good hygiene and dress appropriately for our job duties. The dress requirements for your facility or department may be posted or communicated to you by your supervisor. Generally, clothing that is too revealing, tight fitting or provocative is inappropriate during business hours.

Some Company facilities require the use of uniforms while employees are engaged in their job duties. If uniforms are required, you must obtain your supervisor's approval before wearing any other type of clothing. Your supervisor will also advise you about the procedure for obtaining and cleaning uniforms.

In all cases regarding what is considered acceptable attire, the final decision rests with the Company. If your attire does not meet standards considered acceptable, you may be requested to go home to change, with time involved unpaid.

Drug Free Workplace

In a commitment to safeguard the health of our employees and to provide a safe working environment for everyone, the Company has a drug-free workplace policy. It is the intent of the Company to provide a safe work environment for all employees free of the effects of substance abuse or abusers. Similarly, it is your responsibility to maintain personal health so you are physically and mentally capable of performing in the workplace. The abuse of drugs or alcohol is an unsafe and counter-productive practice that will not be tolerated. *If you believe you have a substance abuse problem, you are urged to seek assistance before your actions violate Company policy.*

Our drug-free workplace policy includes the following provisions:

- The Company prohibits the illegal use, possession, sale, manufacture, or distribution, of drugs, alcohol, or other controlled substances on Company property and in Company vehicles or equipment. It is against Company policy for you to report to work or to perform job duties, including the operation of a motor vehicle, under the influence of drugs or alcohol.

- All applicants considered final candidates for a position may be tested for the presence of drugs as part of the application process. Any applicant refusing to submit to a pre-employment drug test will be ineligible for hire. If an applicant's test is confirmed positive, the applicant will not be considered for employment at that time and will be informed that he or she has failed to meet employment standards.
- *You are subject to random drug testing in accordance with Company policies and governmental regulations.*
- *You may be tested when there is a reasonable suspicion that you are using or have used drugs/alcohol.*
- If you suffer an injury on the job that requires referral for medical treatment you may be tested.
- If you refuse to submit to a drug/alcohol test, you will be terminated from employment or otherwise disciplined.
- Prescription drugs prescribed by your physician may be taken during work hours. You should notify your supervisor if the use of properly prescribed prescription drugs might adversely affect your work performance. You may be assigned other duties if the use of prescribed medication may interfere with your regular job duties. Abuse of prescription drugs will be considered a violation of this policy.
- In the case of a violation of the Company policy, including a positive drug or alcohol test result, you will be subject to discipline up to and including discharge.

Honesty

Honesty and integrity are personal characteristics that each of us should strive for at all times. Unfortunately, there are times when, for whatever reason, the line that separates honesty and integrity is violated. If that line is violated in any of the following areas, the employee may be subject to disciplinary action up to and including discharge:

- Falsifications of Company paperwork, including but not limited to service agreements, landfill and recycling tickets, incentive pay sheets, vehicle condition reports, repair orders, time cards, expense reports, accident and safety reports, purchase orders, insurance forms, commission calculations, adjustment forms, employment applications and any other type of form or paperwork that you are required to complete from time-to-time.
- Theft of Company equipment, including but not limited to, tools owned by the Company or other employees, office equipment, office supplies, sales marketing and promotional items and any other Company or employee owned property.

ALCOHOL AND/OR DRUG TEST NOTIFICATION

Part 382 - Controlled Substances and Alcohol Use Testing applies to drivers of this company.

§382.113 Requirement for notice.

Before performing an alcohol or controlled substances test under this part, each employer shall notify a driver that the alcohol or controlled substances test is required by this part. No employer shall falsely represent that a test is administered under this part.

Company Name: SUNFLOWER WASTE

Driver/Applicant Name: ROBERT CANNON
(Print) (First, M.I., Last)

You are hereby notified the following test will be administered in compliance with the Federal Motor Carrier Safety Regulations.

1. The test is scheduled: Date: 1/22/07
Location: TALLASSEE
Time: 2:00 PM

2. Check type of test: ☐ Alcohol ☒ Controlled Substance

3. Check reason for test: ☒ Pre-employment ☐ Random ☐ Reasonable suspicion
☐ Post-accident ☐ Return to duty ☐ Follow-up

4. Appointment instructions/comments:

I understand as a condition of my employment with this company, the above identified test is required.

Robert Cannon
Driver/Applicant's Signature

1-22-07
Date

Witnessed by:

Russell Cannon
Company Representative

1/22/06
Date

This fax was received by GFI FAXmaker fax server. For more information, visit http://www.gfi.com

Acc# 09WT
Lab Code: VA172 DEW

51742560

www.gfi.com
10101 Remmer Blvd
Lenexa, KS 66218
(800) 728-4064

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, E.D. No.
ADVANCED DISPOSAL SVCS. SUNFLOWER
CER: TOM DAAS
6905 GATE PARKWAY NORTH
JACKSONVILLE FL 32240
PH 904-453-7000 FAX 904-453-8053

B. MRO Name, Address, Phone and Fax No.
HORACIO MARAFION - EMPLOYEE/SCREE
P.O. BOX 82113
221 SOUTH PARK BLDG. 8
LAFAYETTE LA 70503

C. Donor SSN or Employee ID No.

D. Reason for Test: ☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident
☐ Return to Duty ☐ Follow-up ☐ Other (specify)

E. Drug Tests to be Performed: ☒ THC, COB, PCP, OP, AMP ☐ THC & COB Only ☐ Other (specify)

F. Collection Site Address:
TALLASSEE FAMILY CARE
115 HERREN HILL RD
TALLASSEE AL 36878

Collector Phone No. 334-283-4777
Collector Fax No. 334-283-4762

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark

Specimen Collection: ☒ Split ☐ Single ☐ None Provided (Enter Remark) ☐ Observed (Enter Remark)

STEP 3: Collector places bottle(s) in bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: IV/DNR

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, sealed, stored and released to the Delivery Service noted in accordance with applicable Federal requirements.

Collector's Name (PRINT First, MI, Last)
JANIS B. BELLER

Date of Collection: 01-22-07
Time of Collection: 02:49
☐ AM ☒ PM

Signature of Collector
SPECIMEN BOTTLE(S) RELEASED TO:
DHE CANNON

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB

☒ Primary Specimen Bottle Seal Intact ☐ SPECIMEN BOTTLE(S) RELEASED TO:
☐ Yes ☐ No, (Enter Remark Below)

Signature of Accessionist
(PRINT) Accessionist's Name (First, MI, Last)
Date (Mo./Day/Yr.)

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector, that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

Signature of Donor: Robert Cannon
(PRINT) Donor's Name (First, MI, Last)
Date (Mo./Day/Yr.): 01-22-07

Daytime Phone No. Evening Phone No. Date of Birth

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS:

Signature of Medical Review Officer
(PRINT) Medical Review Officer's Name (First, MI, Last)
Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON

Signature of Medical Review Officer
(PRINT) Medical Review Officer's Name (First, MI, Last)
Date (Mo./Day/Yr.)

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26

**St. Louis
MRO, Inc.**

Rund

3895 Jeffco Boulevard
Arnold, Missouri 63010
636/532.4099

ATTENTION:

Turn Davis
Advanced Diagnostics, Inc. - DA
9790 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Cannon

Chain ID:

REF

Results of DOT Controlled Substance Test

Record Status: Positive
Test Type: Pre-Employment
Collection Date/Time: 01/22/2007 2:49 PM
Batch ID: 20070202
Specimen ID: 51742580
Date COC Received: 01/22/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
606 E State Parkway
Schaumburg, IL 60173
Collection Site: TALLASSEE FAMILY CARE
116 HERON HILL ROAD
TALLASSEE, AL 36878
Specimen Collector: JANE S BELLER

Substance Tested: Result
Amphetamine Negative
Marijuana Negative
Opoids Negative

Substance Tested: Result
Cocaine **POSITIVE**
Phencyclidine Negative

(MRO UNABLE TO CONTACT)
TEST IS POSITIVE:
COCAINE

Hersha Marston M.D. MRO

2/2/2007

Verification Date

Feb 12, 2007

Results for Robert Cannon, Chain ID:

Printed on 2/2/2007 at 6:56:42PM

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0028

FINAL CLEARANCE FOR TERMINATING EMPLOYEE

Robert Cannon Driver
 Employee Name SS# Position
Opelika 3/9/07 1 Feb 07
 Location Termination Date Date of Hire
Violating Drug and alcohol Policy
 Reason:
 Eligible For Rehire: Yes ☐ No ☒

PLEASE DETERMINE IF ANY OF THE FOLLOWING ARE OUTSTANDING: Please Initial

Travel Advance	_____	Accounting	_____	Date	_____
Petty Cash Advance	_____	Accounting	_____	Date	_____
*Avail. Vacation Accrual	_____				
*Avail. Sick Accrual	_____				
*Avail. PTO Accrual	_____				

* Number of hours

***PLEASE COLLECT/CANCEL THE FOLLOWING: PLEASE INITIAL**

Telephone Credit Card	Supervisor	_____	Date	_____
Credit Card/Fuel Card/Toll Card	Supervisor	_____	Date	_____
DP Access Codes	Supervisor	_____	Date	_____
Bldg. Keys/Access Codes/Loan Equipment	Supervisor	_____	Date	_____
Miscellaneous (tools, manuals, etc.)	Supervisor	_____	Date	_____
ID Card/Badge	Supervisor	_____	Date	_____
Policy Manuals and/or Handbook	Supervisor	_____	Date	_____
Locker Key	Supervisor	_____	Date	_____
Uniforms	Supervisor	_____	Date	_____
Office Equipment (i.e., cell phone, fax machine, pager, computer)	Supervisor	<u>DCB</u>	Date	<u>3/9/07</u>
Payroll Deductions for Insurance \$		_____	Date	_____
Cobra letter sent		<u>17M</u>	Date	_____

Select One: Mail check to: _____

Hold For Pick up: _____

Employee Signature: Robert CannonDate 3/9/07Supervisor Signature: Danny C. [Signature]Date 3/9/07CHECK RELEASED: [Signature]Payroll Coordinator: [Signature]

Date _____

From: 3342832670

Page: 4/8

Date: 5/29/2007 4:05:31 PM

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.</small>		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 420-2007-03001
State or local Agency, if any			
NAME (Indicate Mr., Mrs., Miss.) Mr. Robert Cannon		HOME TELEPHONE (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
DATE OF BIRTH			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME Sunflower Waste, LLC		NUMBER OF EMPLOYEES, MEMBERS 334.252.0458	
STREET ADDRESS 115 Herrin Hill Road, Tallahassee, AL 36078		CITY, STATE AND ZIP CODE Macon	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) LATEST (ALL)	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): On March 9, 2007, I was unjustly terminated by Sunflower Waste, LLC. I believe my termination was based upon race, because the reason I was given, failure of a drug screen, was false. Sunflower Waste, LLC falsified and fabricated the reason for my termination, as I have documented proof that my drug screen, for which Sunflower Waste, LLC, claims I was terminated, was, in fact, negative. I was qualified to perform the work I was doing, I was terminated unjustly, and, upon information and belief, the person who took over my duties was not a minority. Therefore, I believe my termination was based on my race.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.		SIGNATURE OF COMPLAINANT Robert Cannon SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) 14 MAY 2007	
Date 5-14-07		Charging Party (Signature) Robert Cannon	

EEOC FORM 6 (10/94)

 CONFIDENTIAL
 ADS / CANNON
 0030

CONSTANGY
BROOKS & SMITH, LLC

ONE FEDERAL PLACE
SUITE 900
1819 FIFTH AVENUE NORTH
BIRMINGHAM, ALABAMA 35203
FACSIMILE (205) 323-7674
www.constangy.com

RECEIVED
EEOC

JUN 14 2007

BIRMINGHAM DISTRICT OFFICE

tdykes@constangy.com
205-226-5469

June 11, 2007

Aaron N. Hallaway
Intake Supervisor
U.S. Equal Employment Opportunity Commission
Birmingham District Office
Ridge Park Place
1130--2nd Street South
Birmingham, AL 35205

Re: Respondent : Advanced Disposal Services
Charging Party : Robert Cannon
Charge No. : 420-2007-03001

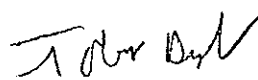
Dear Mr. Hallaway:

Please be advised that Respondent Advanced Disposal Services d/b/a/ Sunflower Waste, LLC has referred the above-referenced charge to the law firm of Constangy, Brooks & Smith for handling. Please send copies of all future correspondence and inquiries to the attention of J. Tobias Dykes, Constangy, Brooks & Smith, 1819 Fifth Avenue North, One Federal Place, Suite 900, Birmingham, Alabama 35203.

We are in the process of investigating this matter and will provide a Statement of Position as soon as possible.

Thank you for your cooperation in this regard.

Sincerely,



J. Tobias Dykes

JTD/mb

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0031

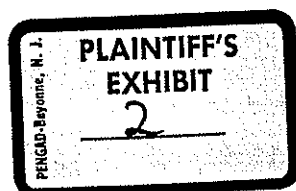
CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.</small>		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER <div style="font-size: 1.2em; font-family: cursive;">420-2007-03001</div>
and EEOC			
State or local Agency, if any			
NAME (Indicate Mr., Ms., Mrs.) Mr. Robert Cannon		HOME TELEPHONE (Include Area Code)	
STREET ADDRESS	CITY, STATE AND ZIP CODE		DATE OF BIRTH
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME Sunflower Waste, LLC	NUMBER OF EMPLOYEES, MEMBERS		TELEPHONE (Include Area Code) 334.252.0458
STREET ADDRESS 115 Herrin Hill Road, Tallassee, AL 36078	CITY, STATE AND ZIP CODE		COUNTY Macon
NAME	TELEPHONE NUMBER (Include Area Code)		
STREET ADDRESS	CITY, STATE AND ZIP CODE		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <div style="display: flex; flex-wrap: wrap; justify-content: space-between;"> <div><input checked="" type="checkbox"/> RACE</div> <div><input type="checkbox"/> COLOR</div> <div><input type="checkbox"/> SEX</div> <div><input type="checkbox"/> RELIGION</div> <div><input type="checkbox"/> AGE</div> <div><input type="checkbox"/> RETALIATION</div> <div><input type="checkbox"/> NATIONAL ORIGIN</div> <div><input type="checkbox"/> DISABILITY</div> <div><input type="checkbox"/> OTHER (Specify)</div> </div>			DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) LATEST (ALL) <div style="text-align: center; margin-top: 10px;"><input type="checkbox"/> CONTINUING ACTION</div>
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>On March 9, 2007, I was unjustly terminated by Sunflower Waste, LLC. I believe my termination was based upon race, because the reason I was given, failure of a drug screen, was false. Sunflower Waste, LLC falsified and fabricated the reason for my termination, as I have documented proof that my drug screen, for which Sunflower Waste, LLC, claims I was terminated, was, in fact, negative. I was qualified to perform the work I was doing, I was terminated unjustly, and, upon information and belief, the person who took over my duties was not a minority. Therefore, I believe my termination was based on my race.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
<div style="font-size: 1.2em; font-family: cursive;">5-14-07</div> Date	<div style="font-size: 1.2em; font-family: cursive;">Robert Cannon</div> Charging Party (Signature)		
SIGNATURE OF COMPLAINANT <div style="font-size: 1.2em; font-family: cursive;">Robert Cannon</div> SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) <div style="font-size: 1.2em; font-family: cursive;">14, MAY 2007</div>		(Notary Signature)	



You may be released at any time during the introductory period if it is determined that you are not suited for the work required. Once you have completed the introductory period successfully, you will be entitled to the benefits based on your employment status.

If you resign or are released during the introductory period, you will be required to reimburse Sunflower for the cost of any uniforms received, drug tests, or other employment costs.

Robert Cannon



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0033

MEDICAL QUESTIONNAIRE

(To be completed after an offer of employment is extended.)

Name of employer Robert CannonName of employee SCUFFLOWER WASTEEmployee's Social Security no. " " Height 6'5" Weight 162

1. Do you now have, or have you ever had, any of the following?

Yes No

- ☐ ☒ Epilepsy (convulsions, seizures)
- ☐ ☒ Diabetes (medication? ☐ Yes ☐ No)
- ☐ ☒ Cardiac (heart) disease
- ☐ ☒ Meniscectomy (inflammation of cartilage of certain joints—e.g., knee)
- ☐ ☒ Amputation of foot, leg, arm or hand
- ☐ ☒ Total loss of sight of one or both eyes, or a partial loss of corrected vision of more than 75% bilaterally
- ☐ ☒ Polio (poliomyelitis)
- ☐ ☒ Cerebral palsy
- ☐ ☒ Multiple sclerosis
- ☐ ☒ Parkinson's disease
- ☐ ☒ Patellectomy (surgically removed kneecap)
- ☐ ☒ Ruptured cruciate ligament (knee ligament)
- ☐ ☒ Hemophilia
- ☐ ☒ Chronic osteomyelitis (infection in bone)

Yes No

- ☐ ☒ Surgical or spontaneous fusion of a major weight-bearing joint (frozen joint)
- ☐ ☒ Hyperinsulinism
- ☐ ☒ Muscular dystrophy
- ☐ ☒ Thrombophlebitis
- ☐ ☒ Herniated intervertebral disk
- ☐ ☒ Surgical removal of an intervertebral disk, or spinal fusion
- ☐ ☒ Total deafness
- ☐ ☒ One or more back or neck injuries or a disease process of the back or neck, substantiated by a doctor's opinion and resulting in disability over a total of 120 or more days
- ☐ ☒ Obesity (30% overweight)
- ☐ ☒ Other _____

2. Have you previously received workers' compensation for an on-the-job injury? ☐ Yes ☒ No If yes, please write why, when and where.*3. Have you ever received a disability rating or had one assigned to you by an insurance company or state/federal agency? ☐ Yes ☒ No If yes, state percentage: _____ %.4. Have you ever injured or sprained your back? ☐ Yes ☒ No If yes, did you have surgery? ☐ Yes ☐ No If yes, please give details.*5. Have you ever injured or sprained your neck? ☐ Yes ☒ No If yes, did you have surgery? ☐ Yes ☐ No If yes, please give details.*6. Have you ever injured or sprained a knee? ☐ Yes ☒ No If yes, did you have surgery? ☐ Yes ☐ No If yes, please give details.*7. Have you ever had any other type of surgery not mentioned above? ☐ Yes ☒ No If yes, please give details.*8. Do you have arthritis? ☐ Yes ☒ No If yes, what parts of the body are affected?*Are you on medication for arthritis? ☐ Yes ☒ No

The information on this form shall not be used to discriminate against a qualified individual with a disability because of the existence of the disability in regard to the following: job application procedures; hiring, advancement or discharge of the employee; employee compensation; job training; and other terms, conditions and privileges of employment.

Under penalty of perjury, I declare that I have read the foregoing and that the facts alleged are true to the best of my knowledge and belief.

Employee's signature Robert CannonDate 1-22-07Employer's signature [Signature] Position _____Date 1/22/07

* Please use another sheet to give further explanation and details.

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0034

MEDICAL RELEASE

This authorization, or photocopy thereof, will authorize you to give
or its representative all information you have regarding my condition while under
your observation or treatment, including the history obtained, X-ray and physical
findings, diagnosis and prognosis.

Signature: Robert J. Cannon SSN: _____ Date: 1-22-07
(Injured person)

Witness: Russell [Signature] Date: 1/22/07

FS 440.105

An injured employee or any other party making a claim under this chapter shall provide his or her personal signature attesting that he or she has reviewed, understands and acknowledges the following statement: Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information commits insurance fraud, punishable as provided in s. 817.234. If the injured employee or other party refuses to sign the document attesting that he or she has reviewed, understands and acknowledges the statement, benefits or payments under this chapter shall be suspended until such signature is obtained.

Complete this form and send it to:

CONFIDENTIAL
ADS/CANNON

FORM

A-4

REV. 04/07

ALABAMA DEPARTMENT OF REVENUE
Employee's Withholding Exemption Certificate

FULL NAME

Robert James Cannon

HOME ADDRESS

SOCIAL SECURITY NO.

CITY

STATE

ZIP CODE

Al

Al

HOW TO CLAIM YOUR WITHHOLDING EXEMPTIONS
(Note: If you claim no personal exemption for yourself, write the figure "0", sign and date the bottom of Form A-4
1. IF YOU ARE SINGLE or MARRIED FILING SEPARATELY a \$1,500 personal exemption is allowed.
(a) if you are SINGLE and claim personal exemption for yourself (\$1,500) write the letter "S"
(b) if you are MARRIED or SINGLE CLAIMING HEAD OF FAMILY, a \$3,000 personal exemption is allowed.
(a) if you are MARRIED and claim exemption for both yourself and your spouse (\$3,000), write the letter "M"
(c) if you are single with dependents and claim HEAD OF FAMILY exemption (\$3,000), write the letter "H"
2. IF YOU ARE MARRIED and wish to withhold at the higher single rate (\$1,500), write the letter "S"
3. If during the year you will provide more than one-half of the support of persons closely related to you (other than spouse) write the number of such dependents
4. Additional amount, if any, you want deducted each pay period.
5. THIS LINE TO BE COMPLETED BY EMPLOYER:
6. TOTAL EXEMPTIONS (Example: Employee claims "M" on Line 3 and "1" on Line 4. Employer should use column headed M-1 in the Withholding Tables.)

If you had no Alabama income tax liability last year and you anticipate no Alabama income tax liability this year, you may claim "exempt" from Alabama withholding tax. To claim exempt status, check the block below, sign and date this form and file it with your employer. Employees claiming exempt status are not required to complete Lines 1-6.
See instructions on the back of Form A-4 before checking this box. ☐

DATE 1-22-07

SIGNED

Robert J. Cannon

Form W-4 (2007)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Because your tax situation may change, you may want to refigure your withholding each year.

Exemption from withholding. If you are exempt, complete only lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2007 expires February 16, 2008. See Pub. 505, Tax Withholding and Estimated Tax.

Note. You cannot claim exemption from withholding if (a) your income exceeds \$850 and includes more than \$300 of unearned income (for example, interest and dividends) and (b) another person can claim you as a dependent on their tax return.

Basic instructions. If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 adjust your withholding allowances based on

itemized deductions, certain credits, adjustments to income, or two-earner/multiple job situations. Complete all worksheets that apply. However, you may claim fewer (or zero) allowances.

Head of household. Generally, you may claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 919, *How Do I Adjust My Tax Withholding*, for information on converting your other credits into withholding allowances.

Nonwage income. If you have a large amount of nonwage income, such as interest or dividends, consider making estimated tax payments using Form 1040-ES, *Estimated Tax*

for individuals. Otherwise, you may owe additional tax. If you have pension or annuity income, see Pub. 919 to find out if you should adjust your withholding on Form W-4 or W-4P.

Two earners/Multiple jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others.

Nonresident alien. If you are a nonresident alien, see the instructions for Form 8233 before completing this Form W-4.

Check your withholding. After your Form W-4 takes effect, use Pub. 919 to see how the dollar amount you are having withheld compares to your projected total tax for 2007. See Pub. 919, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

Personal Allowances Worksheet (Keep for your records.)

- A Enter "1" for yourself if no one else can claim you as a dependent. A _____
- B Enter "1" if:
 • You are single and have only one job; or
 • You are married, have only one job, and your spouse does not work; or
 • Your wages from a second job or your spouse's wages (or the total of both) are \$1,000 or less. B M
- C Enter "1" for your spouse. But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.) C _____
- D Enter number of dependents (other than your spouse or yourself) you will claim on your tax return D _____
- E Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above) E _____
- F Enter "1" if you have at least \$1,500 of child or dependent care expenses for which you plan to claim a credit (Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.) F _____
- G Child Tax Credit (including additional child tax credit). See Pub 972, Child Tax Credit, for more information.
 • If your total income will be less than \$57,000 (\$85,000 if married), enter "2" for each eligible child.
 • If your total income will be between \$57,000 and \$84,000 (\$85,000 and \$119,000 if married), enter "1" for each eligible child plus "1" additional if you have 4 or more eligible children.
 • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.
 H Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.) G 3
- For accuracy, complete all worksheets that apply.
 • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2.
 • If you have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$40,000 (\$25,000 if married) see the Two-Earners/Multiple Jobs Worksheet on page 2 to avoid having too little tax withheld.
 • If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below. H _____

Cut here and give Form W-4 to your employer. Keep the top part for your records.

Form W-4 Department of the Treasury Internal Revenue Service		Employee's Withholding Allowance Certificate Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.		OMB No. 1545-0074 2007
1 Type or print your first name and middle initial. <u>Robert J.</u>		Last name <u>CANNON</u>		2 Your social security number _____
Home address (number and street or rural route) _____		3 <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.		
City or town, state, and ZIP code _____		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. <input type="checkbox"/>		
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		5 _____		
6 Additional amount, if any, you want withheld from each paycheck		6 \$ _____		
7 I claim exemption from withholding for 2007, and I certify that I meet both of the following conditions for exemption. • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here _____		7 _____		
Under penalties of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief, it is true, correct, and complete.				
Employee's signature (Form is not valid unless you sign it.) <u>Robert J. Cannon</u>				
8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)		Date <u>1-22-07</u>		
9 Office code (optional)		10 Employer identification number (EIN)		

For Privacy Act and Paperwork Reduction Act Notice, see page 2.

Cat. No. 10220Q

Form W-4 (2007)

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Sunflower Waste, LLC.
Sunflower Landfill, LLC.
New Employee Information Sheet

Social Security Number:

Employee Name:

Employee Address:

City:

State:

Zip Code:

Phone #

Department:

FEL, ROI, RES, Landfill, G&A

Pay Rate:

Frequency:

Direct Deposit Information:

Bank Name:

Routing Transit Number:

Account Number:

ROBERT J. CANNON

RES

\$125.00

PER DAY

Form **8850**
 (Rev. October 2002)
 Department of the Treasury
 Internal Revenue Service

Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits

See separate instructions.

OMB No. 1515-1500

Job applicant: Fill in the lines below and check any boxes that apply. Complete only this side.

Your name: _____ Social security number: _____

Street address where you live: _____

City or town, state, and ZIP code: _____

Telephone number () _____

If you are under age 25, enter your date of birth (month, day, year) ____/____/____

Work Opportunity Credit

1 ☐ Check here if you received a conditional certification from the state employment security agency (SESA) or a participating local agency for the work opportunity credit.

2 ☐ Check here if any of the following statements apply to you.

- I am a member of a family that has received assistance from Temporary Assistance for Needy Families (TANF) for any 9 months during the last 18 months.
- I am a veteran and a member of a family that received food stamps for at least a 3-month period within the last 15 months.
- I was referred here by a rehabilitation agency approved by the state or the Department of Veterans Affairs.
- I am at least age 18 but not age 25 or older and I am a member of a family that:
 - a Received food stamps for the last 6 months or
 - b Received food stamps for at least 3 of the last 5 months, but is no longer eligible to receive them
- Within the past year, I was convicted of a felony or released from prison for a felony and during the last 6 months I was a member of a low-income family.
- I received supplemental security income (SSI) benefits for any month ending within the last 60 days.

Welfare-to-Work Credit

3 ☐ Check here if you received a conditional certification from the SESA or a participating local agency for the welfare-to-work credit.

4 ☐ Check here if you are a member of a family that:

- Received TANF payments for at least the last 18 months, or
- Received TANF payments for any 18 months beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended within the last 2 years, or
- Stopped being eligible for TANF payments within the last 2 years because Federal or state law limited the maximum time those payments could be made.

All Applicants

Under penalties of perjury, I declare that I gave the above information to the employer on or before the day I was offered a job, and it is, to the best of my knowledge, true, correct, and complete.

Job applicant's signature: _____

or Privacy Act and Paperwork-Reduction Act Notice, see page 2.

Date ____/____/____

Cat. No. 226511

Form 8850 (Rev. 10-02)

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 0039

Form 8850 (Rev. 10-05)

Page 2

For Employer's Use Only

Employer's name _____ Telephone no. () _____ EIN _____

Street address _____

City or town, state, and ZIP code _____

Person to contact, if different from above _____ Telephone no. () _____

Street address _____

City or town, state, and ZIP code _____

If, based on the individual's age and home address, he or she is a member of group 4 or 6 (as described under Members of Targeted Groups in the separate instructions), enter that group number (4 or 6) _____

Date applicant gave information	Was offered job	Was hired	Started job
/ /	/ /	/ /	/ /

Under penalty of perjury, I declare that I completed this form on or before the day a job was offered to the applicant and that the information I have furnished is, to the best of my knowledge, true, correct, and complete. Based on the information the job applicant furnished on page 1, I believe the individual is a member of a targeted group or a long-term family assistance recipient. I hereby request a certification that the individual is a member of a targeted group or a long-term family assistance recipient.

Employer's signature _____ Title _____ Date / /

Privacy Act and Paperwork Reduction Act Notice

Section references are to the Internal Revenue Code.

Section 510(f)(12) permits a prospective employer to request the applicant to complete this form and give it to the prospective employer. The information will be used by the employer to complete the employer's Federal tax return. Completion of this form is voluntary and may assist members of targeted groups and long-term family assistance recipients in securing employment. Routine uses of this form include giving it to the state employment security agency (SESA), which will contact appropriate sources to confirm that the applicant is a member of a targeted group or a long-term family assistance recipient. This form may also be given to the Internal Revenue Service

for administration of the Internal Revenue laws, to the Department of Justice for civil and criminal litigation, to the Department of Labor for oversight of the certifications performed by the SESA, and to cities, states, and the District of Columbia for use in administering their tax laws. In addition, we may disclose this information to Federal, state, or local agencies that investigate or respond to acts or threats of terrorism or participate in intelligence or counterintelligence activities concerning terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 2 hr., 46 min.
Learning about the law or the form 36 min.
Preparing and sending this form to the SESA 36 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001.

Do not send this form to this address. Instead, see When and Where To File in the separate instructions.



Form 8850 (Rev. 11-04)

CONFIDENTIAL
ADS / CANNON
0040

ADVANCED DISPOSAL SERVICES
SEAT BELT POLICY

TALLASSEE

Location

10-13-2003

Effective Date of this Policy

Seat belts save lives and prevent injuries. More than one-third of all occupational fatalities are the result of motor vehicle accidents. Many of those lives would have been saved had the vehicle occupants been wearing a seat belt.

- All occupants of automobiles, pick-ups, service vehicles or any other vehicles under 10,000 GVW, operated on or for company business, must be restrained by an effective safety seat belt system.
- All occupants of route vehicles in excess of 10,000 GVW are required to wear an effective safety belt system while driving to and from their route, to and from the disposal facility, and, to and from the facility location.
- All powered industrial vehicle and heavy equipment operators are required to wear an effective safety seat belt system.

Robert P. Cannon
Employee Signature

1-22-07
Date

JOB DESCRIPTION

Title:	
Job Description:	
Typical Work Conditions:	
Equipment Used:	
Knowledge/Training:	
Key Tasks:	

PHYSICAL DEMAND SUMMARY

Activity	Frequency					Activity	Frequency			
Lift/Carry	N	O	F	C			N	O	F	C
10 lbs or less						Twist/Turn				
11-20 lbs						Climb				
21-50 lbs						Crawl				
51-100 lbs						Reach above Shoulder				
100 + lbs						Reach Outward				
Push/Pull						Handling/Fingering				
12 lbs or less						Stand/Walk				
13-25 lbs						Sit				
26-40 lbs						Drive:				
41-100 lbs						Automatic				
Bend						Standard				
Squat/Kneel										
						Type/Keypunch				

Key: N = Never O = Occasional F = Frequent C = Constant

Employee: _____	Claim: _____	Date: _____
Fund Member: _____ Prepared by: _____		

JOB SPECIFICATIONS	
Job Title _____	Full time _____ Part-Time _____
Work Setting _____	
Tools, Equipment, Machines Used _____	
Special Equipment Used _____	

PHYSICAL ACTIVITIES (To be filled out by Employer or Employer Representative)					
Upper Extremities	Yes	No	Physical Activities	Yes	No
Reach Overhead	_____	_____	On a daily basis	_____	_____
Reach Forward	_____	_____	Standing	_____	_____
Push/Pull	_____	_____	Sitting	_____	_____
Handling/Fingering	_____	_____	Balancing	_____	_____
Torso and Lower Extremities			Climb Stairs	_____	_____
Kneeling	_____	_____	Climb, Other	_____	_____
Crawling	_____	_____	Walk/ Other	_____	_____
			Lifting and Carrying		
			_____ 10 lbs _____ 20 lbs _____ 50 lbs		
Stooping	_____	_____			
Twisting	_____	_____	Lifting Only		
Squatting	_____	_____	_____ 10 lbs _____ 20 lbs _____ 50 lbs		
COMMENTS: _____					

Wages _____ Work Hours _____

Check below if either option applies:

_____ This job could be modified.

_____ Another position could be available.

Signature _____ Date _____

Title _____ Company _____

GC-F-8

DRIVER BONUS PLAN

- \$1200.00 Annual Bonus
- Employee Eligibility
 1. Must be employed at end of bonus period
 2. Must meet all probation requirements
 3. Must attend all safety meetings
- Penalties and Deductions
 1. Tardiness & Excessive absents - \$20.00
 2. No more than 3 miss/pickups in a week -\$10.00
 3. Must pass truck inspections - \$50.00
 4. No Accidents or Injuries – cost of Accident – Cost
 5. No call / No show - \$100.00 per day
 6. Clean behind blade - \$50.00
 7. Paperwork must be completed daily (Route sheets, VCR's, Coversheets, Etc) - \$25.00
 8. Write ups for Disciplinary Actions - \$200.00
 9. Suspension - \$250.00
 10. Truck Abuse – Cost of repairs
 11. Must wear uniforms daily - \$100.00

MANAGEMENT RESERVES THE RIGHT TO OVERRIDE ANY
POLICY

ROBERT CANNON
PRINT NAME

Robert Cannon
EMPLOYEE SIGN

1-31-07
DATE

Russell H. H.
MANAGER SIGN

FEB-12-2007 MON 11:04 AM

FAX NO.

P. 03

Opelika Housing Authority

P.O. Box 786
Opelika, Alabama 36801
(334) 745-2250

Please Fax to (334) 745-6783

WAGE VERIFICATION

Name:

Robert Cannon

Soc. Sec. No.:

Address:

Date:

2/12/07

To Whom It May Concern:

The above applicant/resident is requesting rental assistance from our agency and has given your name as an employer. Regulations governing eligibility and rental rate determination require positive employer income verification. Your prompt reply to the information requested below will be greatly appreciated and will, of course, be treated as confidential. Your cooperation in this matter will not only benefit your employee, but will assist this Authority in the eligibility process.

Yours very truly,

I authorize the release of this information
to the Opelika Housing Authority.

Jennifer Baines
Eligibility Specialist

Robert Cannon
Applicant/Resident

- Employed since: 1-23-2007 Occupation: DRIVER
- Is job: ☒ Permanent ☐ Temporary ☐ Seasonal (From _____ To _____)
- Salary Base Rate Per Hour: \$ 6.25.00 Pay Period: ☒ Weekly ☐ Biweekly ☐ Monthly
Please indicate average number of hours worked per week 40
- Total gross earning for these periods:
From _____ Through 1-27-07 \$ 500.00
From _____ Through 2-9-07 \$ 651.01
From _____ Through _____ \$ _____
- Estimate Gross Earning for the next 12 months _____. If impossible, to give this figure, please state reason:
6.25.00 X 12 = 7500.00
Any other compensation not included above (specify for overtime, commissions, Meals, tips, etc.)
- Is employee entitled to receive vacation with pay? ☒ Yes ☐ No after 1yr anniversary
Number of days per year: 5
- Please indicate the days and hours this employee works:
(M)(T)(W)(Th)(F)S Su Hours: From 5:00 (AM)PM TO 4:00 (AM)PM
Other: _____

REMARKS (Tenure of job, etc.)

Firm Name:

Sunflower Waste

Signed:

Sherry Beasley

Date:

2-12-07

Phone no:

334-252-0458CONFIDENTIAL
ADS / CANNON
0045

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

In re
ROBERT CANNON

Case No. 06-81093-WRS
Chapter 13

Soc. Sec. No.

Debtor.

INCOME WITHHOLDING ORDER

TO: SUNFLOWER WASTE
ATTN PAYROLL
P O BOX 781150
TALLASSEE AL 36078

The debtor subjected all of his income, including future earnings and wages, to the jurisdiction of this Court by filing a case under Chapter 13 of the United States Bankruptcy Code. It is hereby

ORDERED that SUNFLOWER WASTE withhold from the wages, earnings, or other income of this debtor the sum of \$90.00 weekly and remit all such funds withheld to:

CHAPTER 13 TRUSTEE
06-81093 ROBERT CANNON
P O BOX 830529
BIRMINGHAM AL 35283

The wages, earnings, or other income withheld in compliance with this Order should be remitted to the Trustee no less frequently than each month.

This Order continues in force and effect until further Order of this Court.

Done this 07th day of February, 2007.

Original is Signed
WILLIAM R SAWYER
United States Bankruptcy Judge

cc: Debtor
Debtor's Attorney

SUNFLOWER WASTE
ATTN PAYROLL
P O BOX 781150
TALLASSEE AL 36078

Soc. Sec. No. 420-88-2743

CONFIDENTIAL
ADS / CANNON
0046

EMPLOYER: SUNFLOWER WASTE

ROBERT CANNON

Name

06-81093-WRS

Case Number

Please complete the form below and fax it to (334)262-8599 or mail it to:

Chapter 13 Trustee
P O Box 173
Montgomery AL 36101-0173

The above address is for correspondence only, all payments need to be sent to the address on the front of the Income Withholding Order.

☒ The above named is employed by me and the wages will be remitted at least once a month.

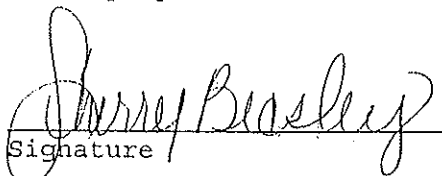
☐ The above named is not employed by me.

☐ He or she left our employ approximately: _____

☐ He or she, after leaving us, may be employed by: _____

New Employer

Address


Signature

Date

2-8-07

Company Name

Address

Sunflower Waste
PO Box 981150
Tallahassee, FL 32307

CONFIDENTIAL
ADS / CANNON
0047

Advanced
Disposal

VACATION/ABSENCE REQUEST FORM

Robert Cannon
EMPLOYEE NAME

Tallahassee
LOCATION

VACATION

FIRST CHOICE:

FROM THE DATE OF 2-6-07 THROUGH 2-6-07

RETURNING TO WORK ON 2-7-07

SECOND CHOICE:

FROM THE DATE OF _____ THROUGH _____

RETURNING TO WORK ON _____

OTHER ABSENCE

☐ SICK

☐ JURY DUTY

☐ BEREAVEMENT

☐ DISCIPLINE

☐ PERSONAL DAY

☐ OTHER

☐ PAID ABSENCE

☒ UNPAID ABSENCE

COMMENTS:

EMPLOYEE'S SIGNATURE: _____

DATE: _____

MANAGER'S SIGNATURE: [Signature]

DATE: 2-12-07

* Copy to be sent to Human Resources Department in Jacksonville, Florida

CONFIDENTIAL
ADS / CANNON
0048

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

In re
ROBERT CANNON

Case No. 06-81093-WRS
Chapter 13

Soc. Sec. No.

Debtor.

AMENDED INCOME WITHHOLDING ORDER

TO: SUNFLOWER WASTE
ATTN PAYROLL
P O BOX 781150
TALLASSEE AL 36078

The debtor subjected all of his income, including future earnings and wages, to the jurisdiction of this Court by filing a case under Chapter 13 of the United States Bankruptcy Code. It is hereby

ORDERED that SUNFLOWER WASTE withhold from the wages, earnings, or other income of this debtor the sum of \$100.00 weekly and remit all such funds withheld to:

CHAPTER 13 TRUSTEE
06-81093 ROBERT CANNON
P O BOX 830529
BIRMINGHAM AL 35283

The wages, earnings, or other income withheld in compliance with this Order should be remitted to the Trustee no less frequently than each month.

This Order continues in force and effect until further Order of this Court.

Done this 15th day of February, 2007.

Original is Signed
WILLIAM R SAWYER
United States Bankruptcy Judge

cc: Debtor
Debtor's Attorney

SUNFLOWER WASTE
ATTN PAYROLL
P O BOX 781150
TALLASSEE AL 36078

Soc. Sec. No. 420-88-2743

CONFIDENTIAL
ADS / CANNON
0049

EMPLOYER: SUNFLOWER WASTE

ROBERT CANNON

Name

06-81093-WRS

Case Number

Please complete the form below and fax it to (334)262-8599 or mail it to:

Chapter 13 Trustee
P O Box 173
Montgomery AL 36101-0173

The above address is for correspondence only, all payments need to be sent to the address on the front of the Income Withholding Order.

☒ The above named is employed by me and the wages will be remitted at least once a month.

☐ The above named is not employed by me.

☐ He or she left our employ approximately: _____

☐ He or she, after leaving us, may be employed by: _____

New Employer

Address


Signature

Company Name

Address

Sunflower Waste

PO Box 781150

Tallahassee, AL 323078

Date 3-2-07

CONFIDENTIAL
ADS / CANNON
0050

OPELIKA HOUSING AUTHORITY



1706 Toomer Street

P. O. Box 786

Opelika, Alabama 36803-0786

Telephone: (334) 745-4171 Fax: (334) 745-6783

www.opelikaha.org

opelikaha@opelikaha.org

FACSIMILE COVER SHEET

FROM: Rebecca BROONER

To: MS Sherry Beasley

With: Sunflower Waste

Phone #

Fax #: 334-283-2670

Comments: Ms. Beasley, I know you fixed the job
termination for Mr. Cannon. However I can
not find the form. Could you please fax again?
I need the form for auditing purposes.

Thanks,

If there is no inconvenience please respond back as soon as possible.
Thank You for Your Cooperation and Have a Great Day.

Jennifer Barnes

TO: From: Jennifer Barnes
PHA Representative

If you have any Question please feel free to contact me at the number above at ext 24

Total Number of Pages Faxed: 2 (including cover sheet)

Date: 6/7/07

Opelika Housing Authority
P.O Box 786
Opelika, Alabama 36801
(334)745-2250
Please Fax to (334)745-6783

334-283-2670

JOB TERMINATION VERIFICATION

Name: Robert Cannon
Address: _____

Soc. Sec. No.: _____

Date: 3-12-07

To Whom It May Concern:

The above named person is currently renting through our Public Housing Program. They have reported to us that your company no longer employs them. To make necessary changes we must have written verification of this information. Your promptly reply to the information requested below will be greatly appreciated. All information is kept confidential. Thanks for your cooperation in this matter.

Sincerely,

J. Barry
Housing Authority Representative

I authorize the release of this information to the
O.H.A.

Robert Cannon
Resident

1. Employed Since 1-23-07 Last date employee worked 3-9-07
2. Was employee ☒ terminated, ☐ laid off, or ☐ voluntarily quit?
(a.) If laid-off: Permanent or temporary? _____
(b.) If temporary, how long do you expect lay off to last? _____
3. Date employee received last check 3-16-07

Additional remarks:

Firm Name: Sunflower Waste, LLC
Phone No.: 334-252-0458

Signed: Rebecca B. Bremer
Date: 6/7/07

OPELIKA HOUSING AUTHORITY



1706 Todmer Street

P. O. Box 786

Opelika, Alabama 36803-0786

Telephone: (334) 745-4171 Fax: (334) 745-6783

www.opelika.org

opelika@opelika.org

FACSIMILE COVER SHEET

From

To:

Ms. Sherry Beasley

With:

Sunflower Waste

Phone #

Fax #:

334-283-2670

Comments:

If there is no inconvenience please respond back as soon as possible.
Thank You for Your Cooperation and Have a Great Day.

From:

PHA Representative

If you have any Question please feel free to contact me at the number above at ext

24

Total Number of Pages Faxed: 2 (including cover sheet)

Date:

3/13/07

CONFIDENTIAL
ADS / CANNON
0053

Opelika Housing Authority
P.O. Box 786
Opelika, Alabama 36801
(334)745-2250
Please Fax to (334)745-6783

334-283-2670

JOB TERMINATION VERIFICATION

Name:
Address

Robert Cannon

Soc. Sec. No.:

Date: 3-12-07

To Whom It May Concern:

The above named person is currently renting through our Public Housing Program. They have reported to us that your company no longer employs them. To make necessary changes we must have written verification of this information. Your promptly reply to the information requested below will be greatly appreciated. All information is kept confidential. Thanks for your cooperation in this matter.

Sincerely,

J. Bains

Housing Authority Representative

I authorize the release of this information to the
O.H.A.

Robert Cannon

Resident

1. Employed Since 1-23-2007 Last date employee worked 3-9-2007

2. Was employee ☒ terminated, ☐ laid off, or ☐ voluntarily quit?

(a.) If laid-off: Permanent or temporary?

(b.) If temporary, how long do you expect lay off to last?

3. Date employee received last check 3-16-07

Additional remarks:

Terminated due to violation of drug & alcohol policy

Firm Name:

Sunflower Waste, LLC

Signed:

J. Bains

Phone No.:

334-252-0458

Date:

3-13-07

EMPLOYEE DISCIPLINARY REPORT

EMPLOYEE NAME Robert Cannon DATE OF OFFENSE _____
 POSITION Driver COMPANY LOCATION Opelika
 COMPANY NAME Sunflower DISTRICT A1

The following disciplinary action was taken today and is to be made part of the official record of the above mentioned employee.

The Company views progressive discipline and the issuance of written disciplinary action as a constructive method of communicating to employees the importance of meeting the performance standards established by the Company. The Company believes that adherence to Company policies and procedures and exemplification of a positive work ethic by all employees is essential in creating a work environment that is satisfying, safe and productive.

The Company believes that progressive discipline is a mutually beneficial process for both employee and employer. It is the Company's intention to utilize this process, whenever practical, to identify deficiencies in job performance and provide direction to employees for taking corrective measures.

However, continued violation of Company policies could result in additional disciplinary action, leading up to and/or including termination. The Company recognizes there are certain offenses that, if committed by an employee, are serious enough to justify immediate discharge, thereby, superseding the progressive discipline process.

☐ Verbal Documentation ☐ 1st Written Warning ☐ 2nd Written Warning in lieu of suspension ☒ Termination
☐ 2nd Written Warning with suspension without pay _____ day(s) Attach Exit Interview

Suspension - Designate Specific Dates	/ / thru / /	Return to work on / /
<input type="checkbox"/> 1. Unexcused absence	<input checked="" type="checkbox"/> 11. Violation of company drug and alcohol policy	<input type="checkbox"/> 17. Preventable accident
<input type="checkbox"/> 2. Excessive tardiness/absence	<input type="checkbox"/> 12. Failure to maintain required driving credentials	<input type="checkbox"/> 18. Failure to wear personal safety equipment
<input type="checkbox"/> 3. Abuse of lunch/break privileges	<input type="checkbox"/> 13. Substandard work/customer complaints	<input type="checkbox"/> 19. Destruction of company property
<input type="checkbox"/> 4. Improper conduct	<input type="checkbox"/> 14. Housekeeping (work area/assigned vehicle)	<input type="checkbox"/> 20. Reckless driving
<input type="checkbox"/> 5. Dishonesty	<input type="checkbox"/> 15. Fighting	<input type="checkbox"/> 21. Equipment abuse
<input type="checkbox"/> 6. Insubordination	<input type="checkbox"/> 16. Carelessness	<input type="checkbox"/> 22. Violation of safety rules
<input type="checkbox"/> 7. Failure to follow instructions		<input type="checkbox"/> 23. Stealing/Unauthorized accounts
<input type="checkbox"/> 8. Failure to report an accident		<input type="checkbox"/> 24. Salvaging
<input type="checkbox"/> 9. Failure to report an injury		<input type="checkbox"/> 25. Falsification of documents
<input type="checkbox"/> 10. Leaving without permission		<input type="checkbox"/> 26. Other _____

Explain Violation: _____

Corrective Measures To Be Taken By Employee: _____

I have read this report and acknowledge receipt.

x _____
 Employee Signature

Employee Comments (continue on back of this form if necessary): _____

[Signature]
 Employee refused to sign - witness signature

Issued By: Danny C. [Signature] Resident Mgr 3/9/07
 Name Title Date Issued

Reviewed By: _____
 Name Title Date Reviewed



NOTICE OF TERMINATION

Date: March 9, 2007

To: Robert Cannon

You are hereby given notice that your employment with the company shall be terminated on 3/9/07.

This action is necessary due to the following violations of company policies and/or work rules: Violation company drug and alcohol

policy

Your final paycheck shall be for the period ending 3/9/07.

There shall be no severance pay since your termination was for just cause. Please contact Sherry Beasley concerning insurance coverage or other accrued benefits to which you may be entitled.

We regret this action is necessary and wish you success in your future endeavors.

Sincerely,

Danny C. [Signature]

ANN DORA'S CUSTOM WROUGHT IRON

504 B Fairview st.
Montgomery, AL 36104
Telephone: (334) 224-0591 Fax: (334) 242-2157

FACSIMILE COVER SHEET

From
To:

With:

Phone #

Fax #

Comments:

Cherry Sherry
*Please fill out information
and Return*

If there is no inconvenience please respond back as soon as possible.
Thank You for Your Cooperation and Have a Great Day.

To
From:

Total number of pages faxed: 2 (including cover sheet)

Date 4/2/07

PREVIOUS EMPLOYER INFORMATION REQUEST

FROM: ANN DORA'S
504 B FAIRVIEW ST
MONTGOMERY, AL 36104
334-224-0591 FAX 334-242-2157
CONTACT: ANTHONY FLOYD

PREVIOUS EMPLOYER
COMPANY: SUN FLOWER WASTE LLC
STREET: 115 HERGEN HILL RD.
CITY: TALLASSEE AL 36078
PHONE: 334-242-0458 FAX: 283-2670

THE PERSON NAMED BELOW HAS MADE APPLICATION FOR EMPLOYMENT AT ANN DORA'S AS A DRIVER. YOUR NAME WAS GIVEN AS A PAST/PRESENT EMPLOYER. YOUR PROMPT ATTENTION AND RESPONSE WILL BE GREATLY APPRECIATED.

APPLICANTS NAME Robert Cannon DATE 3/28/07
SOCIAL SECURITY # _____ DRIVERS LICENSE# _____ STATE AL

ABOVE FILLED OUT BY APPLICANT

DATE OF EMPLOYMENT 1-23-07 TO 3-9-07 POSITION HELD Res Driver
INDICATE EQUIPMENT OPERATED: ☒ STRAIGHT TRUCK ☐ TRACTOR TRAILER

TYPE OF DRIVING? ☒ LOCAL ☐ OVER THE ROAD

IN COMPLIANCE WITH 49 C.F.R. 382, WAS THIS APPLICANT SUBJECT TO FEDERAL ALCOHOL & DRUG TESTING? ☒ YES ☐ NO

DID HE/SHE TEST POSITIVE ON DRUG TEST? ☒ YES ☐ NO ALCOHOL .04>? ☒ YES ☐ NO

IF YES, GIVE DATE AND EXPLAIN. 3-9-07 / results came back in reference to pre-employment testing - had to take 2 tests - 1st test had wrong SSN# on it.
HAS THIS PERSON, IN THE LAST 2 YEARS, HAD ANY DRUG OR ALCOHOL VIOLATIONS? ☒ YES ☐ NO So we retested
IF YES, EXPLAIN.

See Above
REASON FOR LEAVING Terminated!

WOULD YOU REHIRE? ☐ YES ☒ NO IF NO, PLEASE EXPLAIN violation of drug & Alcohol policy

WAS THIS PERSON INVOLVED IN ANY ACCIDENTS? ☐ YES ☒ NO IF SO, WHEN?

WAS ACCIDENT EMPLOYEES FAULT? ☐ YES ☐ NO IF YES, EXPLAIN N/A

NAME OF PERSON SUPPLYING INFORMATION Sherry Beasley TITLE Office Manager
SIGNATURE Sherry Beasley DATE 4-2-07

APPLICANT WAIVER
FORMER EMPLOYER: _____ DATE _____

I HEREBY AUTHORIZE YOU TO RELEASE THE ABOVE INFORMATION ALONG WITH ANY MEDICAL INFORMATION THAT MIGHT AFFECT MY ABILITY TO PERFORM IN THE POSITION I HAVE APPLIED FOR.

APPLICANT'S SIGNATURE Robert Cannon WITNESS Bill Lucas

Please Fax RESPONSE: 1-334-242-2157

CONFIDENTIAL
ADS / CANNON
0058

ALABAMA DEPARTMENT OF INDUSTRIAL RELATIONS

UNEMPLOYMENT COMPENSATION DIVISION

B241F

IMPORTANT NOTE: If your response is not received by 03/21/07 a determination may be made based solely on information furnished by the claimant.



NOTICE OF CLAIM AND REQUEST FOR SEPARATION INFORMATION

Return to:

JACKSON II DONWARD W ETAL
SUNFLOWER WASTE LLC
PO BOX 781150
TALLASSEE AL 36078-1150

ADJUDICATION SUPPORT
ROOM 3438
649 MONROE STREET
MONTGOMERY, AL 36131
FAX NUMBER 334 353-1265

The individual identified below has filed a claim for Unemployment Compensation benefits.

1. CLAIMANT'S NAME: CANNON/ROBERT J
2. SOCIAL SECURITY NO:
3. CLAIM DATE: 03/11/07
4. ACCT NUMBER: 0029512205

5. DATE MAILED: 03/13/07
6. EFFECTIVE DATE: 03/11/07
7. CALL-CENTER : 6001
8. TYPE OF CLAIM: N-01

The claimant identified you as his/her last employer and alleges the reason for separation to be:
11 DISCH./DISHONEST OR CRIMINAL ACT/DRUG-RELDW 03/09/07

EMPLOYER RESPONSE (INSTRUCTIONS FOR COMPLETION ON REVERSE)

9. Claimant's last day employed was 3-9-07
(If temporary layoff, enter expected date of recall: _____)

10. If the claimant earned wages or was paid vacation and/or sick pay or will receive a pension upon termination with you on or after the date shown in item #6. above, complete the applicable space(s) below:

a. GROSS WAGES for hours worked. (AFTER DATE IN #6) \$ 0

b. HOLIDAY \$ — paid for which holiday? —

c. VAC, SICK \$ — Was vacation pay for a specific time period following separation? (circle one) Yes No If Yes what was the period? — to —

d. WARN PAY \$ — paid for period — to —

e. PENSION \$ — per month. Effective date: —

11. DISCHARGED. What was the date of the final incident that caused the discharge: 3-9-07

12. WARNING FOR SAME OR SIMILAR INCIDENT :(CIRCLE ONE) YES NO WARNING DATE: _____

13. QUIT: Date quit: _____ Reason for quit: _____

14. REASON FOR SEPARATION: (ATTACH ADDITIONAL SHEET IF NECESSARY)

Violation of company drug & Alcohol policy

15. Enter your federal identification number: 59-3707144

CONFIDENTIAL
ADS / CANNON
0059

Sherry Beasley
Print Name

Office Mgr
Title

252-0458
Telephone No.

3-14-07
Date



March 26, 2007

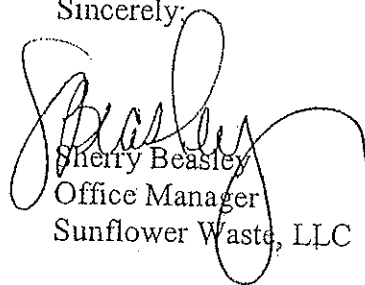
Alabama Dept of Industrial Relations
Hearings & Appeals Division
649 Monroe Street
Montgomery, AL 36131

Re: Robert J Cannon

To Whom It May Concern:

This letter is to appeal the determination that this claimant is eligible for benefits. If you have any questions, please feel free to call me at 334-252-0458.

Sincerely,


Sherry Beasley
Office Manager
Sunflower Waste, LLC

CONFIDENTIAL
ADS / CANNON
0060

EN--8

ALABAMA DEPARTMENT OF INDUSTRIAL RELATIONS
UNEMPLOYMENT COMPENSATION AGENCY
MONTGOMERY, ALABAMA 36131



EMPLOYER NOTICE OF DETERMINATION

EMPLOYER NO.0029512205

JACKSON II DONWARD W ETAL
SUNFLOWER WASTE LLC
PO BOX 781150
TALLASSEE AL 36078-1150

1. CLAIMANT'S NAME :	CANNON/ROBERT J	8. DATE MAILED:	03/23/07
2. SOCIAL SECURITY NO		9. LOCAL OFFICE:	6001
3. BENEFIT YEAR BEGINS:	03/11/07	10. TYPE OF CLAIM:	NEW
4. EFFECTIVE DATE:	03/11/07	11. MAIL CODE:	9
5. WEEKLY BENEFIT AMOUNT:		12. CONTACT LINE:	800-361-4524
6. MAXIMUM BENEFIT AMOUNT :	\$230.00		
7. BASE PERIOD:A FOUR QUARTER PERIOD	\$5977.00		
BEGINNING QTR/YR	4/05		

A DETERMINATION HAS BEEN MADE ON THIS CLAIM HOLDING THE CLAIMANT ELIGIBLE FOR BENEFITS.

CONFIDENTIAL
ADS/CANNON
0061

SEE BACK OF THIS NOTICE FOR EXPLANATIONS OF MOST FREQUENT DISQUALIFICATIONS.

RIGHT TO APPEAL: This determination becomes final within 15 calendar days from date mailed unless appealed. If appeals MUST be filed by a letter addressed to the Hearings and Appeals Division, 649 Monroe Street, Montgomery, AL 36131, or by Fax to 334-242-2084. The appeal must be received within the prescribed time whether filed by mail or fax. Should the last calendar day for filing an appeal fall on a Saturday, Sunday or state holiday or other office closing, the period is extended to the next business day.

NOTE: THIS NOTICE IS FOR YOUR RECORDS. IF YOU WRITE REGARDING THIS

AT-58

STATE OF ALABAMA
DEPARTMENT OF INDUSTRIAL RELATIONS
HEARINGS AND APPEALS DIVISION
MONTGOMERY, ALABAMA 36130



DECISION ON UNEMPLOYMENT COMPENSATION CLAIM

CLAIMANT

ROBERT J CANNON

EMPLOYER

JACKSON II DONWARD W ETAL
SUNFLOWER WASTE LLC
PO BOX 781150
TALLASSEE AL 36078-1150

APPELLANT : EMPLOYER

LOCATION : MONTGOMERY
(TELEPHONE)

OC NO. : 00-74**DATE MAILED** : 04/20/07**CASE NO.** : 03502-AT-07**S. S. NO.****HEARING DATE** : 04/13/07

APPEARANCES AT THE HEARING: Claimant and employer representative with observer

ISSUE(S): Whether the claimant was discharged or removed from work for a dishonest or criminal act committed in connection with work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous warning or for the refusal to submit to or cooperate with a blood or urine test after previous warning. Section 25-4-78(3)(a) Code of Alabama 1975

Availability for work. Section 25-4-77(a)(3) Code of Alabama 1975

FINDINGS: This employer, with whom the claimant had most recent bona fide work, appealed an Examiner's determination on a claim for unemployment benefits.

The claimant worked for the listed employer as a CDL driver from January 23, 2007, until March 9, 2007. The employer requires a pre-employment drug test, which the claimant took on January 22, 2007, before beginning work the following day. Because the employer was in the process of changing medical review officers, the results were not returned immediately. When the manager noticed the misspelling of the claimant's name, although the social security number was correct, the manager then asked the claimant to take another drug test, which he did, on February 12, 2007. On that same day, approximately two hours later, the claimant went to his own doctor, took the drug test, and returned the results to the employer, showing that it was negative. The results of the second drug test completed by the employer were also negative. The employer has a drug policy, which has been in effect for at least seven years. The claimant received a copy of the policy. The employer falls under the Department of Transportation's regulations. All employees are subject to drug testing. Their doctor's office collects the specimen, which is then sent to the medical review officer for the results. The results of the pre-employment test were returned on March 6, 2007. The manager's supervisor instructed him to terminate the claimant, based upon the positive results of the first drug test taken, which he did on March 9, 2007.

CONCLUSIONS: Section 25-4-78(3)(a) of the Law requires a disqualification of an individual discharged or removed from work for a dishonest or criminal act committed in connection with work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous

CONFIDENTIAL
ADS / CANNON
0062

STATE OF ALABAMA
DEPARTMENT OF INDUSTRIAL RELATIONS
HEARINGS AND APPEALS DIVISION
MONTGOMERY, ALABAMA 36131

Conf #
30044469

NOTICE OF UNEMPLOYMENT COMPENSATION TELEPHONE HEARING

JACKSON II DONWARD W ETAL
SUNFLOWER WASTE LLC
PO BOX 781150
TALLASSEE AL

36078-1150

PARTICIPANT ID: 0350202

CLAIM DATE : 03/11/07

DATE MAILED: 04/02/2007

CLAIMANT: ROBERT J CANNON

CLAIMANT'S SSN:

EMPLOYER: JACKSON II DONWARD W ETAL

APPELLANT: EMPLOYER

ADM HEARING OFR: JO ANN HOLDER

CASE NO: 03502AT07

HEARING WILL BE HELD ON APRIL 13, 2007 AT: 10:30 AM CDT

PLEASE READ THE IMPORTANT INFORMATION ON THE BACK OF THIS NOTICE

INSTRUCTIONS FOR TELEPHONE HEARINGS:

You have been granted a telephone hearing. You must immediately telephone the Hearings and Appeals Division and provide a telephone number where you may be reached prior to the hearing. Call 1-800-321-9323. If you do not provide a telephone number prior to the hearing the Hearing Officer will not call you. The use of a cell phone is not suitable for a teleconference hearing.

ISSUES:

SECTION 25-4-78(2) AND/OR 25-4-78(3) CODE OF
ALABAMA 1975: WHETHER THE CLAIMANT LEFT THE MOST
RECENT BONA FIDE WORK VOLUNTARILY WITHOUT GOOD
CAUSE CONNECTED WITH SUCH WORK OR WAS DISCHARGED
FOR MISCONDUCT CONNECTED WITH THE WORK.

-
-
-

DH

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5/29/07

Robert James Cannon

Start Date: 1/23/07

Termination Date: 3/9/07

If you need anything additional - please advise.
Becky Broomer

5/29/07

Faxed copy of drug test ID'd as Batch ID 20070202 to
Tom Davis 3:45 pm

T
SUNFLOWER WASTE LLC

P.O. BOX 781150

TALLASSEE, AL 36078-1150

TOLL FREE (866) 252-0458

FAX (334) 283-2670

Robert Cannon

FACSIMILE TRANSMITTAL SHEET

TO:

Tom Davis

FROM:

VAN FORRESTER

COMPANY:

DATE:

5/29/07

FAX NUMBER:

904-493-3053

TOTAL NO. OF PAGES INCLUDING COVER:

6

PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

RE:

YOUR REFERENCE NUMBER:

☒ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

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This fax was received by GFI FAXmaker fax server. For more information, visit http://www.gfi.com

Acc# 09WT 51742560

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYEE REPRESENTATIVE

A. Employer Name, Address, I.D. No.
ADVANCED DISPOSAL SVCS - SUNFLOWER
BER: TOM DAMS
9906 GATE PARKWAY NORTH
JACKSONVILLE FL 32248
PH 904-453-7000 FAX 904-453-3055

B. MRO Name, Address, Phone and Fax No.
HORACIO MARAFION - EMPLOYEE SCREEN
P.O. BOX 82113
221 SOUTH PARK BLVD. 8
LAFAYETTE LA 70508
Ph 337-331-1816
Fx 337-169-1134

C. Donor SSN or Employee I.D. No.

D. Reason for Test: ☒ Pre-employment ☐ Random ☐ Reasonable Suspicion Cause ☐ Post-Accident
☐ Return to Duty ☐ Follow-up ☐ Other (specify)

E. Drug Tests to be Performed: ☒ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify)

F. Collection Site Address:
TALLASSEE FAMILY CARE
115 HERREN HILL RD
TALLASSEE AL 36978

Collector Phone No. 334-283-4777
Collector Fax No. 334-283-4162

STEP 2: COMPLETED BY COLLECTOR

Head specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No. Enter Remark

Specimen Collection: ☒ Split ☐ Single ☐ None. Provided (Enter Remark) ☐ Observed (Enter Remark)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: *INDIC*

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

Collector's Name (PRINT First, MI, Last)
James S. Belieu

Date of Collection: 01-22-07 Time of Collection: 02:49 AM ☒ PM

SPECIMEN BOTTLE(S) RELEASED TO:
DHC COMMERCIAL

RECEIVED AT LAB

☒ Primary Specimen Bottle Seal Intact ☐ No. Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

Signature of Accessioner: _____ Date (Mo./Day/Yr.): _____

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector, that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

Signature of Donor: *Robert Harrison* (PRINT) Donor's Name (First, MI, Last)
Date (Mo./Day/Yr.): 01-22-07

Daytime Phone No. _____ Evening Phone No. _____ Date of Birth: _____

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you chose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☒ NEGATIVE ☐ POSITIVE ☐ TEST CANCELED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS: _____

Signature of Medical Review Officer: _____ (PRINT) Medical Review Officer's Name (First, MI, Last)
Date (Mo./Day/Yr.): _____

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☒ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON: _____

Signature of Medical Review Officer: _____ (PRINT) Medical Review Officer's Name (First, MI, Last)
Date (Mo./Day/Yr.): _____

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From: 3342832670 Page: 1/1 Date: 5/29/2007 4:37:18 PM
02/06/2007 13:10 FAX

002/002

St. Louis
MRO, Inc.

3895 Jeffco Boulevard
Arnold, Missouri 63010
636/532.4099

ATTENTION:

Tom Davis
Advanced Disposal Services, Inc. - DOT
9798 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Cannon

Owner ID:

SSN:

Results of DOT Controlled Substance Test

Record Status: Positive
Test Type: Pre-Employment
Collection Date/Time: 01/22/2007 2:48 PM
Batch ID: 20070202
Specimen ID: 61742660
Date COG Received: 01/22/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
608 E State Parkway
Schaumburg, IL 60173

Collection Site: TALLASSEE FAMILY CARE
115 HERON HILL ROAD
TALLASSEE, AL 36878

Specimen Collector: JANE B BELLEV

Substance Tested	Result
Amphetamine	Negative
Marijuana	Negative
Opiates	Negative

Substance Tested	Result
Cocaine	POSITIVE
Phencyclidine	Negative

MRO UNABLE TO CONTACT
TEST IS POSITIVE:
COCAINE

Horsede Marlon M.D. MRO

2/2/2007

Verification Date

Feb 12, 2007

Results for Robert Cannon, Owner ID:

Printed on 2/2/2007 at 5:58:42 PM

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26

St. Louis
MRO, Inc.

3895 Jeffco Boulevard
Arnold, Missouri 63010
636/532.4099

ATTENTION:

Tom Davis
Advanced Disposal Services, Inc. - Dot
9798 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Ranhon

Other ID:

SSN:

Results of DOT Controlled Substance Test

Record Status: Positive
Test Type: Pre-Employment
Collection Date/Time: 01/22/2007 2:49 PM
Batch ID: 20070202
Specimen ID: 51742560
Date COC Received: 01/22/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
508 E State Parkway
Schaumburg, IL 60173
Collection Site: TALLASSEE FAMILY CARE
115 HERON HILL ROAD
TALLASSEE, AL 36078
Specimen Collector: JANE S BELLEW

Substance Tested	Result
Amphetamines	Negative
Marijuana	Negative
Opiates	Negative

Substance Tested	Result
Cocaine	POSITIVE
Phencyclidine	Negative

MRO UNABLE TO CONTACT
TEST IS POSITIVE:
COCAINE

Horacio Merapioti M.D. MRO

2/2/2007

Verification Date

Feb 12, 2007

Results for Robert Ranhon, Other ID:

Printed on 2/2/2007 at 6:58:42PM

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03/20/2007 14:24 3347456763
MAR-19-07 07:41AM FROM ST LOUIS MRO INC

OFELIKA HOUSING AUTH
6365322607

PAGE 05/05
T-812 P.001/00, F-323

ATTN:

Mrs. Pullum

[Handwritten signature]

St. Louis
MRO, Inc.

Client not

THIS IS THE COMPANY Drug Screen

3896 Jeffco Boulevard
Arnold, Missouri 63010
636/532.4099

ATTENTION:

Tom Davis
Advanced Diagnostic Services, Inc. - Dot
9790 Normandy Blvd
Jacksonville, FL 32221

Participant: Robert Cannon
Other ID:

Results of DOT Controlled Substance Test

Record Status: Negative
Test Type: Pre-Employment
Collection Date/Time: 02/12/2007 08:42 AM
Batch ID: 20070214
Specimen ID: 6662214
Date COC Received: 02/12/2007
Sample Type: Urine

Laboratory: Quest Diagnostics
506 E State Parkway
Schaumburg, IL 60173

Collection Site: TALLASSEE FAMILY CARE
116 HERON HILL ROAD
TALLASSEE, AL 36078
Specimen Collector: JANE BELLEW

Substance Tested	Result
Amphetamines	Negative
Marijuana	Negative
Opiates	Negative

Substance Tested	Result
Cocaine	Negative
Phencyclidine	Negative

[Handwritten signature]
Horacio Marañón M.D. MRO

2/14/2007

Verification Date

REQUEST FOR CHECK OF DRIVING RECORD

NOTE TO MOTOR CARRIER: SEE BACK SIDE FOR STATES THAT ACCEPT THIS FORM.

I hereby authorize you to release the following information to SUNFLOWER WASTE
(Prospective Employer)

for purposes of investigation as required by Sections 391.23 and 391.25 of the Federal Motor Carrier Safety Regulations. You are released from any and all liability which may result from furnishing such information.

[Signature]
(Applicant's Signature)1-22-07
(Date)

In accordance with the provisions of Sections 604 and 607 of the Fair Credit Reporting Act, Public Law 91-508, as amended by the Consumer Credit Reporting Act of 1996 (Title II, Subtitle D, Chapter 1, of Public Law 104-208), I hereby certify the following:

1. The consumer (applicant) has authorized in writing the procurement of this report;
2. The consumer (applicant) has been informed in a separate written disclosure that a consumer report may be obtained for employment purposes;
3. The information requested below will be used for a "permissible purpose" (i.e., information for employment purposes) and will be used for no other purpose;
4. The information being obtained will not be used in violation of any federal or state equal opportunity law or regulation; and
5. Before taking an adverse action based in whole or in part on the report the consumer (applicant) will receive a copy of the requested report and the summary of consumer rights as provided with the report by the consumer reporting agency.

I also hereby certify that this report request and the above applicant's release notice meet the definition of "permissible uses" of state motor vehicle records under the provisions of the Driver's Privacy Protection Act of 1994 (Public Law 103-322, Title XXX, Section 300002(a)).

(Signature of Requester)

(Date)

DEAR SIR/MADAM:

☐ The following named person has made application with our company for the position of _____
In accordance with Section 391.23, Federal Department of Transportation Regulations, please furnish the undersigned with the applicant's driving record for the past three years.

☐ The following named person is employed with our company in the position of _____
In accordance with Section 391.25, Federal Department of Transportation Regulations, please furnish the undersigned with the employee's driving record for the past year.

NAME OF APPLICANT/DRIVER _____

ADDRESS _____

(Number & Street)

(City)

(State)

(Zip Code)

FORMER ADDRESS _____

(Number & Street)

(City)

(State)

(Zip Code)

DATE OF BIRTH _____

SSN _____

LICENSE NO. _____

REQUESTED BY

(Name of Company)

(Typed Name)

(Address)

(Title)

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0070

(City)

(State)

(Signature)

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Robert Cannon in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☐ wearing corrective lenses ☐ driving within an exempt intracity zone (49 CFR 391.62)
☐ wearing hearing aid ☐ accompanied by a Skill Performance Evaluation Certificate (SPE)
☐ accompanied by a _____ waiver/exemption ☐ qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER <u>Nedum Khan</u>		TELEPHONE	DATE <u>1-22-07</u>
MEDICAL EXAMINER'S NAME (PRINT) <u>Nedum Khan, MD</u>		<input checked="" type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input type="checkbox"/> Physician Assistant <input type="checkbox"/> Advanced Practice Nurse	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE <u>AL 27076</u>			
SIGNATURE OF DRIVER <u>Robert Cannon</u>		DRIVER'S LICENSE NO.	STATE <u>AL</u>
ADDRESS OF DRIVER			
MEDICAL CERTIFICATE EXPIRATION DATE <u>Jan 22, 2008</u>			

MOTOR CARRIER COPY

SEPARATE MOTOR CARRIER COPY BEFORE REMOVING LINER FROM LAMINATE

Medical Examination Report

649-F (Rev. 10/03) (6045)

FOR COMMERCIAL DRIVER FITNESS DETERMINATION

1. ~~DRIVER'S MEDICAL HISTORY~~ Driver completes this section.

Driver's Name (Last, First, Middle) <i>Mark Robert James</i>	Social Security No.	Birthdate	Age <i>47</i>	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	<input checked="" type="checkbox"/> New Certification <input type="checkbox"/> Recertification	Date of Exam <i>1-22-07</i>
Address	City, State, Zip Code	Work Tel: ()	Home Tel:	Driver License No.	License Class <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> Other	State of Issue <i>AL</i>

2. ~~EXAMINER'S MEDICAL HISTORY~~ Driver completes this section, but medical examiner is encouraged to discuss with driver.

Yes No <input type="checkbox"/> Any illness or injury in the last 5 years? <input checked="" type="checkbox"/> Head/Brain injuries, disorders or illnesses <input type="checkbox"/> Seizures, epilepsy <input type="checkbox"/> medication _____ <input type="checkbox"/> Eye disorders or impaired vision (except corrective lenses) <input type="checkbox"/> Ear disorders, loss of hearing or balance <input type="checkbox"/> Heart disease or heart attack; other cardiovascular condition <input type="checkbox"/> medication _____ <input type="checkbox"/> Heart surgery (valve replacement/bypass, angioplasty, pacemaker) <input type="checkbox"/> High blood pressure <input type="checkbox"/> medication _____ <input type="checkbox"/> Muscular disease <input type="checkbox"/> Shortness of breath	Yes No <input type="checkbox"/> Lung disease, emphysema, asthma, chronic bronchitis <input type="checkbox"/> Kidney disease, dialysis <input type="checkbox"/> Liver disease <input type="checkbox"/> Digestive problems <input type="checkbox"/> Diabetes or elevated blood sugar controlled by: <input type="checkbox"/> diet <input type="checkbox"/> pills <input type="checkbox"/> insulin <input type="checkbox"/> Nervous or psychiatric disorders, e.g., severe depression <input type="checkbox"/> medication _____ <input type="checkbox"/> Loss of, or altered consciousness	Yes No <input type="checkbox"/> Fainting, dizziness <input type="checkbox"/> Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring <input type="checkbox"/> Stroke or paralysis <input type="checkbox"/> Missing or impaired hand, arm, foot, leg, finger, toe <input type="checkbox"/> Spinal injury or disease <input type="checkbox"/> Chronic low back pain <input type="checkbox"/> Regular, frequent alcohol use <input type="checkbox"/> Narcotic or habit forming drug use
---	--	--

For any YES answer, indicate onset date, diagnosis, treating physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

Driver's Signature

Robert J. James

Date

1-22-07

Medical Examiner's Comments on Health History (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards of medications, including over-the-counter medications, while driving. This discussion must be documented below.)

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TESTING (Medical Examiner completes Section 3 through 7)Name: Last, Cannon First, Robert Middle,**3. VISION**

Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70° peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

INSTRUCTIONS: When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the applicant habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. Monocular drivers are not qualified.

Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION
Right Eye	20/	20/25	Right Eye °
Left Eye	20/	20/25	Left Eye °
Both Eyes	20/	20/30	

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? ☒ Yes ☐ No

Applicant meets visual acuity requirement only when wearing: ☒ Corrective Lenses ☐ No

Monocular Vision: ☐ Yes ☒ No

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Date of Examination _____ Name of Ophthalmologist or Optometrist (print) _____ Tel. No. _____

License No./State of Issue _____

Signature _____

4. HEARINGStandard: a) Must first perceive forced whispered voice ≥ 5 ft., with or without hearing aid, or b) average hearing loss in better ear ≤ 40 dB. ☐ Check if hearing aid used for tests. ☐ Check if hearing aid required to meet standard.**INSTRUCTIONS:** To convert audiometric test results from ISO to ANSI, -14 dB from ISO for 500 Hz, -10 dB for 1,000 Hz, -8.5 dB for 2,000 Hz. To average, add the readings for 3 frequencies tested and divide by 3.

Numerical readings must be recorded.

a) Record distance from individual at which forced whispered voice can first be heard.	Right Ear \feet	Left Ear \feet
--	--------------------	-------------------

b) If audiometer is used, record hearing loss in decibels. (acc. to ANSI Z24.5-1951)

Right Ear	Left Ear
500 Hz	500 Hz
1000 Hz	1000 Hz
2000 Hz	2000 Hz
Average:	Average:

5. BLOOD PRESSURE / PULSE RATE

Numerical readings must be recorded. Medical examiner should take at least two readings to confirm BP.

Blood Pressure	Systolic	Diastolic	Reading	Category	Expiration Date	Recertification
	148	92	140-159/90-99	Stage 1	1 year	1 year if $\leq 140/90$. One-time certificate for 3 months if 141-159/91-99.
Driver qualified if $\leq 140/90$.			160-179/100-109	Stage 2	One-time certificate for 3 months.	1 year from date of exam if $\leq 140/90$
Pulse Rate: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Irregular			$\geq 180/110$.	Stage 3	6 months from date of exam if $\leq 140/90$	6 months if $\leq 140/90$
Record Pulse Rate: 88						

6. URINALYSIS AND OTHER TEST FINDINGS

Numerical readings must be recorded.

Urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problem.

Other Testing (Describe and record)

URINE SPECIMEN	SP. GR.	PROTEIN	BLOOD	SUGAR
1/20				

7. HERNANDEZ, CARMENHeight: 6'5" (in.)Weight: 200# (lbs.)Name: Last, CARMEN First, CarmenMiddle, Robert

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen or is readily amenable to treatment. Even if a condition does not disqualify a driver, the medical examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible particularly if the condition, if neglected, could result in more serious illness that might affect driving.

Check YES if there are any abnormalities. Check NO if the body system is normal. Discuss any YES answers in detail in the space below, and indicate whether it would affect the driver's ability to operate a commercial motor vehicle safely. Enter applicable item number before each comment. If organic disease is present, note that it has been compensated for.

See Instructions to the Medical Examiner for guidance.

BODY SYSTEM	CHECK FOR:	YES	NO	BODY SYSTEM	CHECK FOR:	YES	NO
1. General Appearance	Marked overweight, tremor, signs of alcoholism, problem drinking, or drug abuse.		<input checked="" type="checkbox"/>	7. Abdomen and Viscera	Enlarged liver, enlarged spleen, masses, bruits, hernia, significant abdominal wall muscle weakness.		<input checked="" type="checkbox"/>
2. Eyes	Pupillary equality, reaction to light, accommodation, ocular motility, ocular muscle imbalance, extraocular movement, nystagmus, exophthalmos. Ask about retinopathy, cataracts, aphakia, glaucoma, macular degeneration and refer to a specialist if appropriate.		<input checked="" type="checkbox"/>	8. Vascular System	Abnormal pulse and amplitude, carotid or arterial bruits, varicose veins.		<input checked="" type="checkbox"/>
3. Ears	Scarring of tympanic membrane, occlusion of external canal, perforated eardrums.		<input checked="" type="checkbox"/>	9. Genito-urinary System	Hernias.		<input checked="" type="checkbox"/>
4. Mouth and Throat	Irreducible deformities likely to interfere with breathing or swallowing.		<input checked="" type="checkbox"/>	10. Extremities - Limb	Loss or impairment of leg, foot, toe, arm, hand, finger. Perceptible limp, deformities, atrophy, weakness, paralysis, clubbing, edema, hypotonia, insufficient grasp and prehension in upper limb to maintain steering wheel grip. Insufficient mobility and strength in lower limb to operate pedals properly.		<input checked="" type="checkbox"/>
5. Heart	Murmurs, extra sounds, enlarged heart, pacemaker, implantable defibrillator.		<input checked="" type="checkbox"/>	11. Spine, other musculoskeletal	Previous surgery, deformities, limitation of motion, tenderness.		<input checked="" type="checkbox"/>
6. Lungs and chest, not including breast examination.	Abnormal chest wall expansion, abnormal respiratory rate, abnormal breath sounds including wheezes or alveolar rales, impaired respiratory function, cyanosis. Abnormal findings on physical exam may require further testing such as pulmonary tests and/or x-ray of chest.		<input checked="" type="checkbox"/>	12. Neurological	Impaired equilibrium, coordination or speech pattern; asymmetric deep tendon reflexes, sensory or positional abnormalities, abnormal patellar and Babinski's reflexes, ataxia.		<input checked="" type="checkbox"/>

*COMMENTS:

Note certification status here. See Instructions to the Medical Examiner for guidance.

- ☐ Meets standards in 49 CFR 391.41; qualifies for 2 year certificate
☐ Does not meet standards
☒ Meets standards, but periodic monitoring required due to HTN
 Driver qualified only for: ☐ 3 months ☐ 6 months ☒ 1 year ☐ Other
☐ Temporarily disqualified due to (condition or medication): _____
 Return to medical examiner's office for follow up on _____

If meets standards, complete a Medical Examiner's Certificate as stated in 49 CFR 391.43(h). (Driver must carry certificate when operating a commercial vehicle.)

Medical Examiner's Name Nedra Khan MD
 Address 115 Heron Hill Rd Tallahassee AL 36078
 Telephone Number 334283 3477

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LabOne
now a part of Quest Diagnostics
10101 Renner Blvd
Lenexa, KS 66219
(800) 728-4064

51742560
SPECIMEN ID NO.

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

ADVANCED DISPOSAL SVC'S SUNFLOWER
SER: TOM LAMAS
9995 GATE PARKWAY NORTH
JACKSONVILLE FL 32246
PH 904-403-7000 FAX 904-403-7000

B. MRO Name, Address, Phone and Fax No.
HUBACIO MARAFIOTTI - EMPLOYEE SCREEN
P.O. BOX 82113
221 SOUTH PARK BLVD. 0
LAFAYETTE LA 70508

C. Donor SSN or Employee I.D. No.

D. Reason for Test: ☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident
☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☒ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

TALLASSEE FAMILY CARE
115 HERREN HILL RD
TALLASSEE AL 36078

Collector Phone No. 334-233-4777

Collector Fax No. 334-233-4142

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark _____

Specimen Collection ☒ Split ☐ Single ☐ None Provided (Enter Remark) ☐ Observed (Enter Remark)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS

certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

Collector's Name (PRINT First, MI, Last)

10/2/07
Time of Collection 11:47 AM
MO DAY YR HR MIN

SPECIMEN BOTTLE(S) RELEASED TO:

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB

X
Signature of Accessioner

(PRINT) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Primary Specimen
Bottle Seal Intact

☐ Yes
☒ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X
Signature of Donor

(PRINT) Donor's Name (First, MI, Last)

01/22/07
Date (Mo./Day/Yr.)

Daytime Phone No.

Evening Phone No.

Date of Birth Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you chose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). - DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS

X
Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

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X
Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

0075
Date (Mo./Day/Yr.)

U.S. Department of Transportation (DOT)

Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

STEP 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name (Print) (First, M.I., Last)

B: SSN or Employee ID No.

C: Employer Name

Street

City, ST ZIP

DER Name and Telephone No.

DER Name DER (Area Code & Phone Number)

D: Reason for Test: ☐ Random ☐ Reasonable Susp. ☐ Post-Accident ☐ Return to Duty ☐ Follow-up ☐ Pre-employment

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by U.S. Department of Transportation regulations and that the identifying information provided on the form is true and correct.

Signature of Employee

Date Month / Day / Year

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing the above named individual in accordance with the procedures established in the U.S. Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: ☐ BAT ☐ STT DEVICE: ☐ SALIVA ☐ BREATH* 15-Minute Wait: ☐ Yes ☐ No

SCREENING TEST: (For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)

Test #	Testing Device Name	Device Serial # OR Lot # & Exp. Date	Activation Time	Reading Time	Result
CONFIRMATION TEST: Results <u>MUST</u> be affixed to each copy of this form or printed directly onto the form.					
REMARKS:					

Alcohol Technician's Company

Company Street Address

(PRINT) Alcohol Technician's Name (First, M.I., Last)

Company City, State, Zip

Phone Number (Area Code & Number)

Signature of Alcohol Technician

Date Month / Day / Year

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee

Date Month / Day / Year

OMB No. 2105-0559

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Affix With Tamper Evident Tape

Motor Vehicle Driver's

CERTIFICATION OF COMPLIANCE WITH DRIVER LICENSE REQUIREMENTS

MOTOR CARRIER INSTRUCTIONS: The requirements in Part 383 apply to every driver who operates in intrastate, interstate, or foreign commerce and operates a vehicle weighing 26,001 pounds or more, can transport more than 15 people, or transports hazardous materials that require placarding.

The requirements in Part 391 apply to every driver who operates in interstate commerce and operates a vehicle weighing 10,001 pounds or more, can transport more than 15 people, or transports hazardous materials that require placarding.

DRIVER REQUIREMENTS: Parts 383 and 391 of the Federal Motor Carrier Safety Regulations contain some requirements that you as a driver must comply with. They are as follows:

- 1) **POSSESS ONLY ONE LICENSE:** You, as a commercial vehicle driver, may not possess more than one motor vehicle operator's license.
- 2) **NOTIFICATION OF LICENSE SUSPENSION, REVOCATION OR CANCELLATION:** Sections 391.15(b)(2) and 383.33 of the Federal Motor Carrier Safety Regulations require that you notify your employer the NEXT BUSINESS DAY of any revocation or suspension of your driver's license. In addition, Section 383.31 requires that any time you violate a state or local traffic law (other than parking), you must report it within 30 days to: 1) your employing motor carrier, and 2) the state that issued your license (If the violation occurs in a state other than the one which issued your license). The notification to both the employer and state must be in writing.

The following license is the only one I possess:

Driver's License No. _____ State AL Exp. Date 6-8-08

DRIVER CERTIFICATION: I certify that I have read and understood the above requirements.

Driver's Name (Printed): Robert Cannon

Driver's Signature: Robert J. Cannon Date: 1-22-07

Notes: _____

(This form is not required for DOT compliance)

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RECORD OF ROAD TEST

Driver's Name

Robert Cannon

Address

License No.

ate

AL

Equipment Driven:

Truck

Tractor

46520

Trailer

Checked From

To

Date

1/31/07

For those items that apply, checkmark (✓) if driver's performance is satisfactory, mark with an X if driver's performance is unsatisfactory. Explain unsatisfactory items under Remarks. Use not applicable (NA) for items that do not apply.

PART 1 - PRE-TRIP INSPECTION AND

EMERGENCY EQUIPMENT

- Checks general condition approaching unit ☒
- Looks for leakage of coolants, fuel, lubricants ☒
- Checks under hood - oil, water, general condition of engine compartment, steering ☒
- Checks around unit - tires, lights, trailer hookup, brake and light lines, body, doors, horn, windshield wipers ☒
- Tests brake action, tractor protection valve, and parking (hand) brake ☒
- Checks horn, windshield wipers, mirrors, emergency equipment; reflectors, flares, fuses; tire chains (if necessary), fire extinguisher ☒
- Checks instruments for normal readings ☒
- Checks dashboard warning lights for proper functioning ☒
- Cleans windshield, windows, mirrors, lights, reflectors ☒
- Reviews and signs previous report ☒

PART 2 - COUPLING AND UNCOUPLING

- Lines up units ☒
- Connects glad hands to trailer to apply trailer brakes before coupling ☒
- Connects glad hands and light line properly ☒
- Couples without difficulty ☒
- Raises landing gear fully after coupling ☒
- Visually checks king pin assembly to be certain of proper coupling ☒
- Checks coupling by applying hand valve or tractor protection valve (trailer air supply valve) and gently applying pressure by trying to pull away from trailer ☒
- Assure that surface will support trailer before uncoupling ☒

PART 3 - PLACING VEHICLE IN MOTION AND USE OF CONTROLS

A. ENGINE

- Places transmission in neutral before starting engine ☒
- Starts engine without difficulty ☒
- Allows proper warm-up ☒
- Understands gauges on instrument panel ☒
- Maintains proper engine speed (rpm) while driving ☒
- Does not abuse motor ☒

B. CLUTCH AND TRANSMISSION

- Starts loaded unit smoothly ☒
- Uses clutch properly ☒
- Times gear shifts properly ☒
- Shifts gears smoothly ☒
- Uses proper gear sequence ☒

C. BRAKES

- Knows proper use of tractor protection valve ☒
- Understands low air warning ☒
- Tests service brakes ☒
- Builds full air pressure before moving ☒

D. STEERING

- Controls steering wheel ☒
- Good driving posture and good grip on wheel ☒

E. LIGHTS

- Knows lighting regulations ☒
- Uses proper headlight beam ☒
- Dim lights when meeting or following other traffic ☒
- Adjusts speed to range of headlights ☒
- Proper use of auxiliary lights ☒

PART 4 - BACKING AND PARKING

A. BACKING

- Gets out and checks before backing ☒
- Looks back as well as uses mirror ☒
- Gets out and rechecks conditions on long back ☒
- Avoids backing from blind side ☒
- Signals when backing ☒
- Controls speed and direction properly while backing ☒

B. PARKING (City)

- Does not hit nearby vehicles or stationary objects ☒
- Parks proper distance from curb ☒
- Sets parking brake, puts in gear, checks wheels, shuts off motor ☒

- Checks traffic conditions and signals when pulling out from parked position ☒
- Parks in legal and safe location ☒

C. PARKING (Road)

- Parks off pavement ☒
- Avoids parking on soft shoulder ☒
- Uses emergency warning signals when required ☒
- Secures unit properly ☒

13F 662
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0078

**MOTOR VEHICLE DRIVER'S
Certification of Violations/Annual Review of Driving Record**

MOTOR CARRIER INSTRUCTIONS: Each motor carrier shall at least once every 12 months, require each driver it employs to prepare and furnish it with a list of violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted, or on account of which he/she has forfeited bond or collateral during the preceding 12 months (Section 391.27). Drivers who have provided information required by Section 383.31 need not repeat that information on this form.

DRIVER REQUIREMENTS: Each driver shall furnish the list as required by the motor carrier above. If the driver has not been convicted of, or forfeited bond or collateral on account of any violation which must be listed, he/she shall so certify (Section 391.27).

COMPLETED BY DRIVER - CERTIFICATION OF VIOLATIONS

NAME OF DRIVER: (PRINT) <i>Robert Cannon</i>	SOCIAL SECURITY	DATE OF EMPLOYMENT <i>1-22-07</i>
HOME TERMINAL (CITY AND STATE) <i>TALLASSEE AL</i>	DRIVER'S LICENSE NUMBER	STATE <i>AL</i> EXPIRATION DATE <i>6-8-08</i>

I certify that the following is a true and complete list of traffic violations required to be listed (other than those I have provided under Part 383) for which I have been convicted or forfeited bond or collateral during the past 12 months.

(If you have had no violations, check the following box – ☐ None.)

DATE	OFFENSE	LOCATION	TYPE OF VEHICLE OPERATED
<i>1/22/07</i>	<i>N/A</i>		

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation (other than those I have provided under Part 383) required to be listed during the past 12 months.

Date of Certification *1-22-07* Driver's Signature *Robert J. Cannon*

COMPLETED BY MOTOR CARRIER - ANNUAL REVIEW OF DRIVING RECORD

MOTOR CARRIER INSTRUCTIONS: Review the Certification of Violations listed above and other information described in Section 391.25 of the Federal Motor Carrier Safety Regulations. Complete the information requested below.

I have hereby reviewed the driving record of the above named driver in accordance with Section 391.25 and find that he/she (check one):

- ☐ Meets minimum requirements for safe driving ☐ Is disqualified to drive a motor vehicle pursuant to Section 391.15
- ☐ Does not adequately meet satisfactory safe driving performance

Action taken with driver: _____

Reviewed by: _____

Signature

Date

Printed Name

Title

Motor Carrier Name

Motor Carrier Address

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0079**

MAINTAIN THIS DOCUMENT IN THE DRIVER'S QUALIFICATION FILE. THIS DOCUMENT MAY BE PURGED AFTER 3 YEARS FROM DATE OF EXECUTION.



Subject Profile

ORDER#: 4922004
 COMPANY NAME: Advanced Disposal Service
 STORE NUMBER/BILLING CODE sfw
 ORDER HAS BEEN OPENED: Jan 22 2007 12:37PM
 SOC.SEC.NUMBER:
 NAME: Cannon, Robert J
 DRIVER'S LICENSE: STATE: AL
 DOB:

Results Status

[To Send Adverse Action Letter Click Here](#)

Service	Status	Finding
MOTOR VEHICLE REPORT (MVR)	CLOSED	See Results Below

Dmv Results (Print)

Driver License#:
 State: AL

REKLAMI PRINT IMAGE 80
 START OF DRIVING RECORD

ALABAMA Driver Record - B8178 Order Date: 01/22/2007

Host Used: Online Reference: 4922004_1
 Period: THREE YEARS License:
 Name: CANNON, ROBERT JAMES
 Address:
 City, St:
 As of:

Sex :	Weight:	DOB :	AGE:
Eyes:	Height:	Iss Date: 07/12/2004	
Hair:		Exp Date: 06/08/2008	

STATUS: SEE BELOW

Violations/Convictions And Failures to Appear And Accidents

TYPE VIOL	CONV	ACD	AVD	V/C	DESCRIPTION
-----------	------	-----	-----	-----	-------------

*** NONE TO REPORT ***

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Suspensions/Revocations					
-------------------------	--	--	--	--	--

ACTIONS	ORD/DATE	EFF/DATE	END/DATE	CODE	AVD
---------	----------	----------	----------	------	-----

*** NO ACTIVITY ***

License and Permit Information					
--------------------------------	--	--	--	--	--

License: PERSONAL Issue: 07/12/2004 Expire: 06/08/2008 Status: VALID
 Class: OPERATOR

RESTRICTION: CORRECTIVE LENSES

License: COMMERCIAL Issue: Expire: Status: VALID
 Class: A COMBINATION VEHICLE WITH GVWR OVER 26,001 LBS WITH VEHICLE IN TOW OVER 10K GVWR.

License: COMMERCIAL Issue: Expire: Status: VALID

Miscellaneous State Data			
--------------------------	--	--	--

*** NONE TO REPORT ***

FOR STATED BUSINESS PURPOSES ONLY	Underwriting:	Policy	Initials:
	Date: / /	Issue Date: / /	Control Number: IVDKZT

2/12/07

END OF DRIVING RECORD

[Back To Top](#)

[Return To Order List](#)

Print This Page

DRIVER STATEMENT OF ON-DUTY HOURS

(For Newly Hired Drivers)

INSTRUCTIONS: Motor carriers when using a driver for the first time shall obtain from the driver a signed statement giving the total time on-duty during the immediately preceding 7 days and time at which such driver was last relieved from duty prior to beginning work for such carrier. Rule 395.8(j)(2) Federal Motor Carrier Safety Regulations. NOTE: Hours for any compensated work during the preceding 7 days, including work for a non-motor carrier entity, must be recorded on this form.

Driver Name (Print) ROBERT CANNON

Social Security Number _____

Driver's License: State AL Number _____ Class A Endorsement(s) _____ Restriction(s) _____

Type of License CLASS A Issuing State AL

DAY	1 (yesterday)	2	3	4	5	6	7	
DATE								
HOURS WORKED								TOTAL HOURS

I hereby certify that the information given above is correct to the best of my knowledge and belief, and that I was last relieved from work at

Time _____ A.M. _____ P.M. On _____ Day _____ Month _____ Year _____

Robert J. Cannon _____ 1-22-07

Driver's Signature Date

DRIVER CERTIFICATION FOR OTHER COMPENSATED WORK

INSTRUCTIONS: When employed by a motor carrier, a driver must report to the carrier all on-duty time including time working for other employers. The definition of on-duty time found in Section 395.2 paragraphs (8) and (9) of the Federal Motor Carrier Safety Regulations includes time performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier, also performing any compensated work for any nonmotor carrier entity.

(check one)

Are you currently working for another employer?

☐ Yes ☒ No

At this time do you intend to work for another employer while still employed by this company?

☐ Yes ☐ No

I hereby certify that the information given above is true and I understand that once I become employed with this company, if I begin working for any additional employer(s) for compensation that I must inform this company immediately of such employment activity.

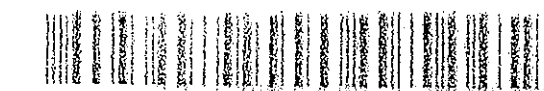
Robert J. Cannon _____ 1-22-07

Driver's Signature Date

Witness: Russell W. Cannon _____ 1/22/07

Company Representative Date

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0082



7121694

5662214

SPECIMEN ID NO.

800-877-7484

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

LAB ACCESSION NO.

A. Employer Name, Address, I.D. No.

ADAMS & ASSOCIATES

101 DAVIS

2975 GATE PARKWAY NORTH

JACKSONVILLE FL 32246

PHONE 904-283-1000

FAX 904-636-0699

B. MRO Name, Address, Phone and Fax No.

MICHAEL HANAPLIK, MD

MDA260020

3995 JEFFERSON BLVD

ORLANDO FL 32819

PH: 636-552-4099

FAX: 636-461-3691

C. Donor SSN or Employee I.D. No.**D. Reason for Test:**

Pre-employment



Random



Reasonable Suspicion/Cause



Post-Accident



Return to Duty



Follow-up



Other (specify)

E. Drug Tests to be Performed:

THC, COC, PCP, OPI, AMP



THC & COC Only



Other (specify)

() 353046 MUA 5 PANEL U/HT.

F. Collection Site Name:

TALLADEGA FAMILY CARE

Collection Site Code:

Address: 115 WARREN HILL RD

City, State and Zip: TALLADEGA AL 36070

Collector Phone No.: 334-203-8477

Collector Fax No.: 334-283-4167

STEP 2: COMPLETED BY COLLECTORRead specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark**Specimen Collection:**

Split



Single



None Provided (Enter Remark)



Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)**STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY**

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable Federal requirements.

Signature of Collector
 (Print) Collector's Name (First, MI, Last)

Time of Collection
 Date (Mo./Day/Yr.)

SPECIMEN BOTTLE(S) RELEASED TO:

Quest Diagnostics Courier



FedEx



DHL / Airborne



Other

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:**Signature of Accessioner**

(Print) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Primary Specimen Bottle Seal Intact

Yes



No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:**STEP 5: COMPLETED BY DONOR**

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

**Signature of Donor**

(PRINT) Donor's Name (First, MI, Last)

Date (Mo./Day/Yr.)

Daytime Phone No.

Evening Phone No.

Date of Birth

Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). - DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:



NEGATIVE



POSITIVE



TEST CANCELLED



REFUSAL TO TEST BECAUSE:



DILUTE



ADULTERATED



SUBSTITUTED

REMARKS

Signature of Medical Review Officer

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SECONDARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:



RECONFIRMED



FAILED TO RECONFIRM - REASON

**Signature of Medical Review Officer**

(PRINT) Medical Review Officer's Name (First, MI, Last)

Date (Mo./Day/Yr.)

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personal

KENT V. KLINCKER, JR., M.D.
1711 PEPPERELL PARKWAY
OPELIKA, AL 36801
(334)745-7098

EMPLOYEE NAME Robert Cannon COLLECTION DATE 2-12-07

ID/SSN _____

TIME OF COLLECTION 10:18 Am NAME OF COLLECTOR TJ Curtis

Robert Cannon
DONOR'S SIGNATURE

TJ Curtis
COLLECTOR'S SIGNATURE

LOCATION OF TEST: 1711 PEPPERELL PKWY, OPELIKA, AL 36801

TIME OF TEST 10:20 (AM/PM)

TEST OPERATOR TJ Curtis

TESTING RESULTS

COCAINE neg
AMPHETAMINES neg
THC neg
OPITAES neg
PCP neg

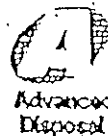
REMARKS _____

CUSTODY AND CONTROL

SPECIMEN RECEIVED BY TJ Curtis DATE 2-12-07
SPECIMEN DESTROYED BY TJ Curtis DATE 2-17-07

Robert Cannon
DONOR'S SIGNATURE

TJ Curtis
COLLECTOR'S SIGNATURE



Driver Qualification File Forms

Signature of Reviewing
Manager/Supervisor

1. Driver's application for employment:
2. Consent for release of alcohol and controlled substance test or violations:
3. Request for check of driving record for each state contacted (attach the MVR):
4. Previous employer inquiry:
5. Physical exam and certificate (pre-employment):
6. NIDA 5 drug screen (attach results to blue copy of CoC along with test notification log):
7. Breath alcohol testing sample report:
8. Driver certification of compliance with license:
9. Road test record and certification:
10. Certification of violations and annual review:
11. Notification of disqualification (part 391 & 383):
12. Driver's statement on on-duty hours (new drivers):
13. Need to know training certificate & district drug & alcohol policy signed by driver:
14. Any NIDA 5 random, post accident, reasonable suspicion drug and/or alcohol reports (#7)
15. Copy of FMCSR pocketbook (stapled to front of folder):
16. Copy of CDL:

The following may be removed from the DQF 3 years after the date of execution (391.51 d):

- a. response of each State agency to the annual driver record inquiry; and
- b. the annual review of the driver's driver record; and
- c. the certificate of violations completed by the driver on an annual basis; and
- d. the medical examiner's certificate; and
- e. the letter issued granting a waiver of a physical disqualification.

Advanced Disposal Services, Inc.

Policy and Procedures Manual

POLICY

Number 4.0

In this period of ever-increasing concern about safety and health, and due to the nature of our business as well as the need to comply with the Drug-Free Workplace Act of 1988, other applicable federal laws or regulations, any contractual obligations, and all laws of the states in which we provide services, Advanced Disposal Services, Inc., and any other subsidiary companies, all of which are hereinafter referred to as "Advanced", must maintain strict standards of conduct which includes the possible effects of alcohol, drugs and contraband in the workplace. Our position regarding substance abuse is the same whether alcohol, marijuana, illegal drugs, prescription drugs, or controlled substances are involved, hereinafter referred to as "controlled substances".

This statement summarizes Advanced's policies and procedures regarding the use, abuse, trade, possession, presence in the system, and sale of alcohol, contraband, drugs and any other intoxicating substances that may be in an employee's system while on duty or affect the safety of those performing or affected by our services. This policy applies to all Advanced personnel and all visitors, leased, part-time or contract personnel.

No controlled substance, including but not limited to alcohol, controlled substances, illegal drugs, mind-altering chemicals, depressants, stimulants, and marijuana is allowed "on premises" or in the employee's system without express approval by Advanced management.

The off-duty use of controlled substances is prohibited if the off-duty use results in the presence of or evidence of the substance in the employee's system when on-duty. Therefore, each employee should be aware that such substances are detectable in the human body for a substantial period of time after consumption. Alcohol consumption while on duty will not be allowed under any circumstances.

Effective: *June 6, 2003*

Revised:

Page 1 of 2

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0086

Advanced Disposal Services, Inc.

Policy and Procedures Manual

POLICY

Number 4.0

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Effective: *June 6, 2003*

Revised:

Page 1 of 2

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Alabama Commercial Driver License

ISS: 07-12-2004
EXP: 06-08-2008

No: 4492920

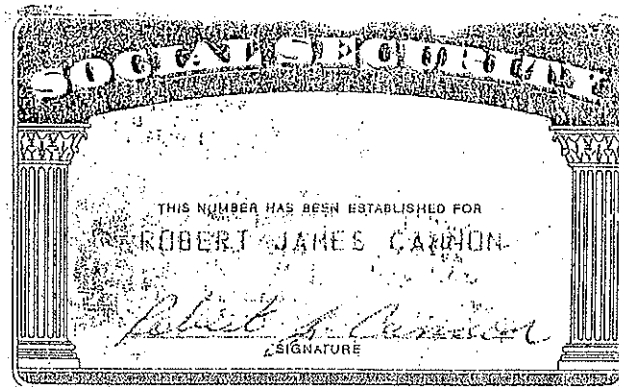
Director of Public Safety
W. M. Copping

ROBERT JAMES CANNON

CLASS	ENDORSEMENTS	RESTRICTIONS
A		A

SEX	HT	WT	EYES	HAIR
M	6-05	246	BRO	BLK

Robert J. Cannon



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0088

ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK

This will acknowledge that I have received my copy of Advanced Disposal Services Employee Handbook. I have read it and been given the opportunity to ask questions that I may have concerning any of the Company's policies and procedures.

I understand that this Handbook represents only current policies, regulations, and benefits, and that it does not create a contract of employment. The Company retains the right to change these policies, procedures and benefits, as it deems advisable.

I understand that I am an "*at will*" employee. I have the right to terminate my employment at any time, with or without cause, and that the Company has a similar right. I further understand that my status as an "*at-will*" employee may not be changed except in writing signed by the President of the Company. Nothing in this Handbook is intended to void my "*at-will*" status.

I understand that I am employed subject to a 90-calendar-day introductory period. I understand that I may be required to reimburse the Company for the cost of any uniforms I received if I voluntarily resign during the introductory period.

I understand that under circumstances as outlined in the Drug and Alcohol policy, I will be subject to physical examination, including a hair, blood and/or urine analysis by qualified personnel.

-Employee Information

Name Robert Cannon

Address #16

City Opelika State AL Zip 36861

Home Phone _____

Cell Phone _____

Emergency Contact

Name _____

Relationship WIFE

Phone Number _____



**ADVANCED DISPOSAL SERVICES, INC.
AND SUBSIDIARIES
EMPLOYEE HANDBOOK**



July 2006

PURPOSE OF THE HANDBOOK

This handbook is a summary of the policies, work rules and benefits in effect at the time of its publication and is designed to provide you with a reference source to answer most of your questions about your employment with the Company. It is to be used for general information and does not replace more detailed policies and procedures. In the case of insurance and similar benefits, current plan documents will prevail.

The contents of this handbook are subject to revision from time to time. However, important changes may be printed and distributed to employees during the period between re-printings, and the Company retains the right to change any policies, procedures, work rules, and benefits, as it deems necessary, at any time.

Under no circumstances are these materials to be considered to create any contractual or quasi-contractual relationship between any employee and the Company. The Company does, moreover, hereby specifically disclaim any intent or purpose that these materials be considered or looked upon as contractual obligations or undertakings. They are informative materials only.

EMPLOYMENT AT WILL

Your employment with the Company is not to be considered permanent or for any guaranteed length of time. Our employment relationship will continue as long as it is mutually satisfactory to both parties. You may resign at any time, with or without notice. Likewise, the Company may terminate your employment at any time, for any reason it deems necessary.

ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK

This will acknowledge that I have received my copy of Advanced Disposal Services Employee Handbook. I have read it and been given the opportunity to ask questions that I may have concerning any of the Company's policies and procedures.

I understand that this Handbook represents only current policies, regulations, and benefits, and that it does not create a contract of employment. The Company retains the right to change these policies, procedures and benefits, as it deems advisable.

I understand that I am an "at will" employee. I have the right to terminate my employment at any time, with or without cause, and that the Company has a similar right. I further understand that my status as an "at-will" employee may not be changed except in writing signed by the President of the Company. Nothing in this Handbook is intended to void my "at-will" status.

I understand that I am employed subject to a 90-calendar-day introductory period. I understand that I may be required to reimburse the Company for the cost of any uniforms I received if I voluntarily resign during the introductory period.

I understand that under circumstances as outlined in the Drug and Alcohol policy, I will be subject to physical examination, including a hair, blood and/or urine analysis by qualified personnel.

PRINTED FULL NAME: _____

SIGNATURE: _____

DATE: _____

NOTE: This form should be signed, detached and returned to your supervisor or human resources administrator within three (3) days after receiving your Employee Handbook.

TABLE OF CONTENTS

Employment Policies

Equal Opportunity Employer	2
Harassment.....	2
Americans with Disabilities	3
Introductory Period	3
Employment Classifications	3
Outside Employment	4
Employment Forms.....	4
Termination.....	5

Work Rules

Absences and Tardiness	6
Bulletin Boards	6
Communication Devices.....	6
Company Property	7
Confidentiality	7
Customer Relations.....	8
Dress and Appearance.....	8
Drug Free Workplace.....	8
Honesty	9
Housekeeping and Office Appearance.....	10
Meals and Rest Breaks.....	10
Notification of Changes in Personal Information	10
Personal Computers/Internet/E-mail and Voice Mail.....	10
Personal Property	13
Personal Telephone Calls and Visitors	13
Salvaging and Scavenging	13
Solicitations.....	13
Smoking	13
Telephone Technique.....	14
Unions	14
Vehicles and Equipment	14
Voting	15

Safety

Accidents and Injuries.....	16
Motor Vehicle Safety.....	16

Compensation

Work Week	17
Overtime	18
Time Cards.....	18

Pay Advances and Loans	18
Deductions	18
Wage and Salary Adjustments	19

Benefits and Paid Time Off

Holidays	19
Vacation	20
Personal Days.....	21
Funerals.....	21
Jury Duty.....	22
Leaves of Absence	22
Social Security Retirement System.....	24
Unemployment Compensation.....	24
Workers' Compensation	24
Pay Calculations for Benefits.....	24

Health and Insurance Benefits	25
-------------------------------------	----

Standards of Conduct.....	26
----------------------------------	-----------

WELCOME

We are pleased to welcome you as an employee of Advanced Disposal Services. Advanced Disposal Services and its management are referred to collectively herein as the "Company." Advanced Disposal Services is a rapidly growing, privately held company in multiple states providing waste collection, recycling and disposal services.

We are committed to providing the highest quality service to our customers while operating in a safe and environmentally responsible manner. We believe that our employees should be treated fairly and with dignity. We also believe that the employees and the Company have a mutual interest in the success of the Company and that teamwork is the best approach.

Your supervisor has been trained and is knowledgeable about Company policies and procedures. He/she also knows who to contact or direct you to if you have any questions that he/she cannot answer. Your supervisor is here to help you do your job better while providing the best service possible to our customers. You should become well acquainted with your supervisor and ask for his or her help whenever necessary.

Felix A. Crawford, Chairman

EMPLOYMENT POLICIES

Equal Opportunity Employer

It is the intent of the Company to attract and retain the best qualified people available, and we will not discriminate in employment on the basis of race, color, religion, national origin, sex, marital status, status as a disabled veteran or veteran of the Vietnam era, age, or disability.

This policy applies to all employment decisions with all employees and applicants. It includes recruitment, hiring, compensation, promotion, transfer, training, demotion, layoff, recall and all other terms and conditions of employment.

Any employee who feels that he or she has not been treated in accordance with this policy should contact their supervisor or any member of management in order to discuss this matter.

Harassment

GENERAL HARASSMENT POLICY

Advanced Disposal Services is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, we will not tolerate harassment of Advanced Disposal Services employees by anyone, including any supervisor, co-worker, vendor, contractor or other regular visitor of the Company.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as sex, color, race, religion, ancestry, national origin, age, disability, or other legally protected group status. Advanced Disposal Services will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment.

The conduct forbidden by this policy specifically includes, but is not limited to: (a) epithets, slurs, negative stereotyping, or intimidating acts that are based on a person's protected status; and (b) written or graphic material circulated or posted within the workplace that shows hostility toward a person or persons because of their protected status.

Sexual harassment deserves special mention. Unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the conduct has the purpose or effect of unreasonably

interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Advanced Disposal Services employees and its Subsidiary's employees are responsible for helping assure that we avoid harassment. If you feel that you have experienced or witnessed harassment, you are to immediately notify your direct supervisor, the Human Resources Manager, or any other member of upper management with whom you feel comfortable. Advanced Disposal Services forbids retaliation against anyone for reporting harassment, assisting in making a harassment complaint, or cooperating in a harassment investigation. Advanced Disposal Services will preserve confidentiality to the extent the needs of the investigation permit.

The Company will promptly and thoroughly investigate all claims of harassment and/or discrimination. Any employee who violates the Company's Harassment Policy will be disciplined up to and including termination.

Americans with Disabilities

It is the policy of the Company to prohibit employment discrimination against qualified individuals with disabilities and to make reasonable accommodations to persons with disabilities unless to do so would pose an undue hardship or pose a safety threat to the employee, co-workers or others.

Introductory Period

Every new employee is considered to be in an introductory period for ninety (90) calendar days after the date of hire. This time is for you to evaluate the Company and to allow both you and your supervisor to become acquainted with each other. During this introductory period, your supervisor will review your quality and quantity of work, attendance and punctuality, and make some assessments about your suitability for the job you have been hired to perform.

You may be released at any time during the introductory period if it is determined that you are not suited for the work required. Once you have completed the introductory period successfully, you will be entitled to the benefits based on your employment status.

If you resign during the introductory period, you may be required to reimburse the Company for the cost of any uniforms you received.

Employment Classifications

Your employment classification determines your eligibility for benefits and your work schedule. The following classifications have been created:

- Introductory -** An employee who is in the ninety (90) day introductory period. Introductory employees are expected to work a regular schedule but are not eligible for insurance, benefits or paid time off.
- Regular full time -** An employee who is regularly scheduled to work forty (40) hours or more per week, has completed the introductory period and is in a position of continued employment for an indefinite time. Regular full time employees are eligible for benefits.
- Regular part time -** An employee who has completed the introductory period and is regularly scheduled to work less than forty (40) hours per week but works in a position of continued employment for an indefinite time. Regular part-time employees are not eligible for benefits or paid time off.
- Temporary -** An employee who is employed in a position for a limited or definite period of time, generally not longer than ninety (90) days, or hired for a specific short-term assignment. Temporary employees are not eligible for benefits. Temporary employees may apply for full time employment.

Outside Employment

The Company understands that its employees may occasionally need to supplement their income by working more than one job. We are concerned that our employees do not jeopardize their ability to serve our customers by working excessive hours. If it is determined that outside employment is adversely affecting an employee's ability to perform their job with the Company, the employee may be required to terminate the outside employment.

You will be required to observe certain rules regarding your outside employment. You cannot work for a company that directly or indirectly competes with the Company for business or customers. You must obtain prior approval from your supervisor before working for a customer or vendor of the Company since such dual employment situations may create a conflict of interest.

Drivers of the Company who are subject to Department of Transportation driving hours limitations will not be permitted to work in outside employment that require driving vehicles.

Employment Forms

Upon hire, new employees must fill out all appropriate payroll, personnel, tax and certain other forms. Your supervisor will provide you with these forms as well as other documents you may be required to read and sign. Failure to complete all required

paperwork may delay the issuance of your paychecks. Paychecks will not be processed until W-4, I-9 and any state applicable withholding forms have been completed and returned to the payroll or human resources administrator.

Termination

Occasionally, it becomes necessary for an employee and the Company to end its employment relationship. There are four (4) classifications of terminations and your eligibility for benefits and rehire are determined by these classifications:

Resignation - Resignation is when an employee voluntarily decides to leave the Company. If you decide to resign, you are expected to give at least a two (2) weeks notice, in writing, so an orderly transition can be made. If you give a two (2) weeks notice, you will be paid for unused vacation days. Your supervisor may allow you to work out your notice or you may be asked to leave prior to the end of your notice period. Failure to give the required notice, poor conduct or unsatisfactory job performance while you are working out your notice may affect your ability to be rehired by the Company or your ability to be paid for unused vacation days. *This classification includes retirement.*

Release - Release is a termination that results when an employee may not be suited for the type of work, may lack the qualifications or is unable to perform job duties in a satisfactory manner. If you are released, you will be paid for unused vacation days.

Layoff - Layoff results when no work is available for an employee or the job position has been eliminated. If you are laid off, you will be paid for unused vacation days.

Discharge - Discharge is a termination that results from violation of standards of conduct, willful failure to observe Company policies and procedures, purposely performing job duties in an unsatisfactory manner or other forms of gross misconduct. If you are discharged, you will not receive pay for unused vacation days or other accrued non-wage benefits unless required by law. This provision does not alter the at-will relationship.

Before you can receive your final paycheck you must:

- Return all Company property, including keys, tools, handbooks, credit cards, cellular telephones, uniforms, etc., that is in your possession
- Satisfy all financial obligations you have to the Company

You will not be eligible for bonus pay, incentive compensation or any other additional compensation unless you are actively at work on the day that such compensation is payable to eligible employees.

The final paycheck for terminated employees will be processed with the next regularly scheduled payroll.

Work Rules

Absences and Tardiness

Your contribution to the success of our Company is important and we need you at work every day. Absenteeism and tardiness cause a loss of efficiency and places an undue burden on your fellow employees.

You should give advance notice, whenever possible, to your supervisor of an expected absence or late arrival to work. This will give your supervisor time to reassign your work. If you are unable to give advance notice due to unforeseen events, such as illness or family emergency, you or an adult member of your family should contact your supervisor as soon as possible about your situation and when you expect to return to work. In addition, if your return from an absence is uncertain or unscheduled, you should contact your supervisor the day before you expect to return to work so your workday can be scheduled. Failure to notify your supervisor before returning to work could result in your being sent home for lack of work. If your supervisor is not available, another member of management should be contacted. Do not leave a message with the first person who answers the phone or the voice mail system; we want to hear from you.

The Company may require a physician's release, obtained at your expense, before you are permitted to return to work if the absence was due to an illness or injury. The Company may also require a physical examination, at the Company's expense, by a physician chosen by the Company. This is to protect you from further injury or illness caused by returning to work before you are capable.

Unauthorized or excessive absenteeism or tardiness may result in disciplinary action up to and including discharge. If you are absent without notice to your supervisor or other member of management, it will be presumed that you have voluntarily resigned your position without notice.

Bulletin Boards

The Company may post notices on bulletin boards, walls, and fences or erect signs to communicate with its employees. You may not post any notices on Company property, including vehicles and equipment, without prior approval by the Company.

Communication Devices

Drivers and certain other employees may be issued radios or similar communication devices to assist them in staying in touch with their supervisor, dispatcher or scale operator. If you have been issued such a device, you are required to monitor it while performing your duties and advise your supervisor or dispatcher whenever you are expected to be away from your device for more than a few minutes. You must check that your communications device is operating properly at the beginning and end of each day. If your device is inoperable, you are required to make contact as directed by your supervisor.

Your communications device must be used for Company business only and in accordance with Federal laws and Company regulations.

Company Property

You will most likely be entrusted with the operation or use of company property while performing your job duties. Some employees will use office equipment, computers and telephones while others will drive or operate large and costly trucks and equipment. Regardless of the type of Company property entrusted to your use, you are responsible for operating and handling the equipment in a safe and proper manner. If you have difficulty operating or are unsure about the proper way to operate Company property, you should contact your supervisor. If you abuse or operate Company property in a careless or improper manner, you may be disciplined up to and including discharge.

Confidentiality

All information relating to the Company's business, its customers and its employees must be treated with strict confidence. You are responsible for the safeguard and protection of all Company information entrusted to you. You should only discuss such information with other employees whose job responsibilities permit them access to such information.

Customer lists and pricing, employee pay rates and pricing arrangements with vendors are among the most confidential information you may encounter. Disclosure of any customer information to individuals outside the Company is a very serious offense that could lead to civil action. Employee pay rates, including your own, are not to be disclosed or discussed with anyone except your supervisor, payroll administrator or human resources administrator. Agreements with vendors help the Company maintain its competitiveness and such information may not be disclosed.

Employees performing certain job duties may be required to sign written confidentiality agreements.

Disclosure of customer, employee, vendor and other Company information may subject you to disciplinary action up to and including discharge.

Customer Relations

The Company expects all employees who interact in any manner with customers to be responsive to their requests and treat them with respect. Do not hesitate to ask your supervisor for assistance if a customer becomes abusive or irate, if the customer specifically asks to speak with a supervisor or manager or if you feel more confident having your supervisor or a manager assist the customer.

Dress and Appearance

The image of the Company is influenced by the appearance of its employees. We are all expected to practice good hygiene and dress appropriately for our job duties. The dress requirements for your facility or department may be posted or communicated to you by your supervisor. Generally, clothing that is too revealing, tight fitting or provocative is inappropriate during business hours.

Some Company facilities require the use of uniforms while employees are engaged in their job duties. If uniforms are required, you must obtain your supervisor's approval before wearing any other type of clothing. Your supervisor will also advise you about the procedure for obtaining and cleaning uniforms.

In all cases regarding what is considered acceptable attire, the final decision rests with the Company. If your attire does not meet standards considered acceptable, you may be requested to go home to change, with time involved unpaid.

Drug Free Workplace

In a commitment to safeguard the health of our employees and to provide a safe working environment for everyone, the Company has a drug-free workplace policy. It is the intent of the Company to provide a safe work environment for all employees free of the effects of substance abuse or abusers. Similarly, it is your responsibility to maintain personal health so you are physically and mentally capable of performing in the workplace. The abuse of drugs or alcohol is an unsafe and counter-productive practice that will not be tolerated. *If you believe you have a substance abuse problem, you are urged to seek assistance before your actions violate Company policy.*

Our drug-free workplace policy includes the following provisions:

- The Company prohibits the illegal use, possession, sale, manufacture, or distribution, of drugs, alcohol, or other controlled substances on Company property and in Company vehicles or equipment. It is against Company policy for you to report to work or to perform job duties, including the operation of a motor vehicle, under the influence of drugs or alcohol.

- All applicants considered final candidates for a position may be tested for the presence of drugs as part of the application process. Any applicant refusing to submit to a pre-employment drug test will be ineligible for hire. If an applicant's test is confirmed positive, the applicant will not be considered for employment at that time and will be informed that he or she has failed to meet employment standards.
- *You are subject to random drug testing in accordance with Company policies and governmental regulations.*
- *You may be tested when there is a reasonable suspicion that you are using or have used drugs/alcohol.*
- If you suffer an injury on the job that requires referral for medical treatment you may be tested.
- If you refuse to submit to a drug/alcohol test, you will be terminated from employment or otherwise disciplined.
- Prescription drugs prescribed by your physician may be taken during work hours. You should notify your supervisor if the use of properly prescribed prescription drugs might adversely affect your work performance. You may be assigned other duties if the use of prescribed medication may interfere with your regular job duties. Abuse of prescription drugs will be considered a violation of this policy.
- In the case of a violation of the Company policy, including a positive drug or alcohol test result, you will be subject to discipline up to and including discharge.

Honesty

Honesty and integrity are personal characteristics that each of us should strive for at all times. Unfortunately, there are times when, for whatever reason, the line that separates honesty and integrity is violated. If that line is violated in any of the following areas, the employee may be subject to disciplinary action up to and including discharge:

- Falsifications of Company paperwork, including but not limited to service agreements, landfill and recycling tickets, incentive pay sheets, vehicle condition reports, repair orders, time cards, expense reports, accident and safety reports, purchase orders, insurance forms, commission calculations, adjustment forms, employment applications and any other type of form or paperwork that you are required to complete from time-to-time.
- Theft of Company equipment, including but not limited to, tools owned by the Company or other employees, office equipment, office supplies, sales marketing and promotional items and any other Company or employee owned property.

Housekeeping and Office Appearance

The appearance of individual offices, workstations and other work areas, including truck and equipment cabs is representative of the type of service we provide and a reflection on our fellow employees. Clean, neat and uncluttered work areas represent the kind of service we wish to provide to our customers. Employees are asked to keep work areas well maintained, especially work areas in view of customers who visit our offices.

Meal and Rest Breaks

Breaks for meals and rest will depend upon your job function and the facility or department where you are employed. Break times and duration will be posted or communicated to you by your supervisor. Due to variable workload and assignments, you may be required to vary the time and duration of your break.

Employees subject to the regulations of the U.S. Department of Transportation who work at least seven (7) hours per day are required to take a thirty (30) minute work break.

Notification of Change in Personal Information

We need to know how to reach you when you're off the job, if necessary, and who to contact in case something happens to you on the job. The Company may also periodically mail you important documents that require your attention. Therefore, certain information about you must be kept up-to-date. You are required to help us keep our records current by promptly notifying your supervisor of any change in your name, address, phone number, and primary person to contact in the event of an emergency.

Personal Computers / Internet / E-mail and Voice Mail

Personal computers and software

Personal computers ("PC") and all the files on the PC are the property of the Company and not the personal property of any individual employee. Use of the PC for anything other than business related functions must have the prior approval of your supervisor. All non-business related activity on a Company PC must be done on your own time and only with the prior approval of your supervisor. The following rules apply to PC and software:

Viruses - No files may be copied onto a PC or accessed from a floppy or removable disk or drive without checking for viruses. If your PC is not installed with a virus scanner, you should contact your supervisor or a member of the computer department before copying any files. If a virus is found, you should immediately tell your supervisor or contact a member of the computer department. Do not continue to use the PC if a virus has been found without authorization from your supervisor or the computer department.

Unauthorized Software - No software, including personally owned software, screen savers and games, may be loaded onto the PC without prior approval from the computer department.

Passwords - No passwords may be used that block entry to your PC or to specific files without prior approval from your supervisor. If a password is approved, the password must be given to your supervisor. Your unique network login, e-mail and network applications passwords control your level of access and such passwords may not be disclosed to anyone except to members of the computer department.

Security - Upon your separation from the Company, all files on the PC remain or become the property of the Company. Copying of such files for personal use is prohibited.

Care and Maintenance - Normal wear of the PC is to be expected. However, please use common sense when working with the PC. Food and drinks should not be placed on or near where the PC resides. If the PC fails for any reason, please contact your supervisor or member of the computer department.

Moving - All computers have been tagged for inventory and location control. No computers, printers, or other attached devices may be moved without prior authorization from the computer department.

Internet Usage - The Internet and the World Wide Web networks provide a unique service for acquiring and sharing government, technical and other information. Employees using the Internet need to ensure that they do so in a proper, ethical and professional manner. Any employee who violates this policy or uses the system for improper purposes will be subject to discipline up to and including discharge. Employees who use the Company access to the Internet:

- Must not disclose or transmit Company proprietary information via the Internet unless approved by the Company.
- Must not download, upload or view material containing the following:
 - Derogatory racial content -Political statements
 - Sexual content -Offensive language
 - Derogatory religious content -Games
 - Any content, which would negatively reflect upon the Company
- Must not use the Internet for personal gain or non-business solicitation.
- Must not attempt to gain unauthorized access to any computer or communications systems on the Internet.
- Must check any downloaded executable software using an approved virus package before that software is run on any Company computer system.

- Are not permitted to use personal Internet accounts on Company time without your supervisor's approval.

E-mail and Voice Mail

Ownership of internal communication systems, whether they are technologically or paper based remains with the Company. The Company reserves the right to read anything contained in a Company owned electronic or paper communication system and listen to messages in the voice mail system. The Company's e-mail and voice mail policies are set forth below:

- The electronic and voice mail systems hardware and software and the paper communication system (referred to collectively herein as "Mail Systems") are Company property. Additionally, all messages composed, sent, received or recorded on the Mail Systems are and remain the property of the Company. They are not the private property of any employee.
- The use of the Mail Systems is reserved solely for the conduct of business at the Company. They may not be used for personal business.
- The Mail Systems may not be used to solicit for commercial ventures, political cause, outside organizations, or other non-job-related solicitations.
- The Mail Systems are not to be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages which contain sexual implications, racial slurs, gender specific comments, or any other comment that offensively addresses someone's age, religious beliefs, national origin, disability or other protected status.
- The Mail Systems may not be used to send or receive copyrighted materials, trade secrets, proprietary financial information, or similar materials without the Company's authorization.
- The Company reserves the right to review all messages created, received, sent or recorded over the Mail Systems for any purpose. The contents of electronic and voice mail may be disclosed within the Company without the permission of the employee, even if it was properly obtained for legitimate business purposes. An employee's use of the Mail Systems is considered to be a waiver of privacy to the Mail Systems.
- The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message.
- Notwithstanding the Company's right to retrieve and read any electronic and listen to voice mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not

authorized to retrieve or read any e-mail or voice mail messages that are not sent to them.

Personal Property

The Company is not responsible for the loss or theft of employee's personal property or valuables. It is your responsibility to keep such property in a safe place. If you drive Company vehicles or equipment, you should remove all personal property at the end of your shift.

Personal Telephone Calls and Visitors

Our telephone lines are exclusively for the conduct of Company business. Employees should refrain from using our telephones for calls, except in emergencies. The cost of personal long distance calls must be reimbursed to the Company. Visits by friends or relatives can be disturbing to our operations and are discouraged.

Salvaging or Scavenging

Local governmental ordinances in some locations prohibit the salvaging or scavenging of recyclable or other solid waste materials. The Company has adopted the policy of prohibiting this type activity.

Solicitations

Solicitations and distributions can put undue pressure on employees and interfere with work activities. Solicitations of employees and distributions of literature during working time or in work areas are strictly prohibited. Solicitations that are prohibited include, but are not limited to, magazine and periodical sales, memberships in organizations and political contributions. Distributions of prohibited literature include, but are not limited to, political or religious literature, advertising brochures, packages of materials, leaflets or information bulletins.

Fund raising for charities, such as United Way and other community wide appeals, may be permitted but only with the prior approval of the supervisor or manager of the facility or department where the fund raising will occur.

Smoking

It is the intent of the Company to foster a healthy environment and observe local laws by maintaining a smoke-free environment in all Company buildings. All smoking must occur in designated areas outside Company buildings. Smoking is also prohibited while conducting business with our customers, including while operating Company vehicles and equipment.

Telephone Technique

Proper use of the telephone will give callers the feeling that we are friendly, helpful and considerate. Your help in being polite, courteous and professional when receiving or making calls to and from customers will create a positive image for all employees. Try to avoid keeping a caller on hold and do not allow a phone to ring unanswered. Also, try to assist the customer without forwarding the call to another employee – customers should not have to explain their needs more than once. If your office has an approved greeting, always use it when answering the telephone. You should confirm information received from the caller and hang up only after the caller has done so.

Unions

It has never been necessary for an employee to join a union to get or keep a job in the Company. You may talk directly to your supervisor about your pay, benefits, and working conditions without interference from outsiders. The Company is committed to the fair treatment of employees with competitive pay practices and benefits. We feel that it is in the best interest of employees and the Company when we work together for growth and success.

Vehicles and Equipment

You may be required to operate heavy trucks and/or equipment as part of your job duties. Such vehicles and equipment represent a significant capital investment by the Company and their proper and safe operation is essential in providing service to our customers. If the operation of such vehicles or equipment is part of your job, you are required to operate them in a safe and proper manner in accordance with federal, state and local laws and Company regulations and guidelines that may be distributed in addition to this handbook.

If your job duties require you to drive a Company vehicle or your personal vehicle, you may do so only if you possess a valid driver's license, which authorizes you to operate the size and type of vehicle, you are required to drive. Driving any vehicle in the performance of your job duties without a valid driver's license is strictly prohibited.

Mechanical malfunctions or suspected problems are to be reported promptly to your supervisor, dispatcher or shop manager. Seemingly minor problems can get progressively worse and develop into serious problems resulting in the vehicle being pulled out of service if left uncorrected.

Drivers and certain other employees may be required to operate Company vehicles and equipment away from Company premises. If you are operating such a vehicle or equipment, you must return it at the end of the workday to the appropriate Company

facility. You may not leave it off the premises or at another Company facility without prior approval from your supervisor.

If your job duties require you to drive a heavy vehicle on public streets and highways, you are required to conduct a pre-trip inspection of your assigned vehicle using prevailing inspection procedures.

You may only drive the vehicle or operate the equipment that has been assigned and entrusted to you. You should not operate another vehicle or equipment unless your supervisor has assigned it to you or you have obtained your supervisor's authorization.

You are responsible for certain maintenance items on your vehicle or equipment. You should keep the inside of cab clean and orderly. Personal items that are not necessary for its operation are not permitted. Loose items that could cause windshield damage when the cab is tilted during servicing must be removed. Drivers of trucks with packer bodies must clean the area in front of the blade daily to avoid the accumulation of trash that diminishes the operational efficiency of the packer. All drivers should periodically check the exhaust system and remove any flammable material from the area.

If your job duties require you to work with bin containers, you should use certain precautions to avoid damage to the containers. Containers should be approached carefully to avoid damage from forks. Containers should be emptied completely. Containers with casters should be handled in a manner to avoid damage or breakage of casters when dropping or moving.

Voting

The Company encourages all employees to exercise their right to vote. The polls are usually open a sufficient number of hours to allow you to vote either before or after your regular work hours. Employees will not receive pay for time taken off to vote.

Safety

One of the Company's objectives is to provide a safe and healthy work environment for its employees. All employees are expected to comply with all federal, state and local occupational safety and health regulations and Company safety policies. However, compliance with governmental regulations and policies do not necessarily guarantee that we will have a safe work environment. Safety also depends primarily on the individual and collective efforts of our employees who have an active interest in their safety and the safety of others. Employees are expected to help promote a safe and healthy work environment by reporting unsafe practices and conditions to their supervisor, safety director or other member of management.

This is a brief summary of some of the safety rules and is not intended to be a safety manual. There are other safety-related resources available from your supervisor and the safety director that may be distributed to you or obtained upon request.

Accidents and Injuries

You must report immediately all accidents and injuries, regardless of extent, involving Company vehicles, equipment and/or employees and members of the general public while on the job. You must not leave the scene of an accident until authorized by your supervisor, safety director, or other member of management unless you have been injured and transported to a medical care facility. You may also be required to stay beyond the end of your shift to assist in the completion of paperwork required following an accident or injury. Failure to report an accident or injury is cause for disciplinary action up to and including discharge, unless injuries sustained in an accident render you incapable of making a timely report.

In the event of an accident or injury that requires medical treatment and when the injury appears to be life threatening, the employee should be taken to a hospital emergency room or an emergency rescue service called. For a less serious injury, an emergency primary care center designated by the Company should be used. You must report any on-the-job injuries promptly, to your supervisor or the safety director. Failure to promptly report on-the-job injuries could jeopardize your workers compensation benefits.

An employee who has had more than one (1) preventable accident or injury in a twelve (12) month period may be required to take additional training or may be subject to disciplinary action up to and including discharge.

Motor Vehicle Safety

The Company is committed to providing a workplace free from the unsafe operation of Company vehicles as well as the unsafe operation of personal vehicles while conducting Company business.

Employees who operate Company vehicles or their personal vehicles on Company business must observe the following rules:

- If your job duties require you to drive a Company vehicle or your personal vehicle, you may do so only if you possess a valid driver's license, which authorizes you to operate the size and type of vehicle, you are required to drive. Driving any vehicle in the performance of your job duties without a valid driver's license is strictly prohibited.
- Upon request, employees and prospective employees must present a copy of their driving record and certificate of insurance for personal vehicles.

- The Company will conduct periodic checks of the driving records of employees who drive a Company-owned vehicle or use their personal vehicles for Company business.
- Employees, either when driving a Company vehicle or when using their personal vehicle while conducting Company business, must operate the vehicles with care, and in a courtesy and safe manner. Employees demonstrating a pattern of recklessness (i.e., driving under the influence, excessive speeding, leaving the scene of an accident), or other unacceptable vehicular violations, will be subject to disciplinary action up to and including discharge.
- Employees who drive a Company-owned vehicle or use their personal vehicles for Company business must maintain no less than the minimal insurance coverage as required by the state in which they reside.
- Employees who drive a Company-owned vehicle or use their personal vehicles for Company business must notify their supervisor of any criminal vehicular violations within five days after such conviction.
- Employees must obey all federal, state and local driving laws.
- Employees must refrain from the use of alcoholic beverages or drugs that may impair driving abilities.
- Employees must immediately report any accidents to their supervisor.

Compensation

Work Week

The workweek refers to the period beginning 12:01 a.m. Sunday and ending midnight of the following Saturday.

The operating hours for administrative offices and facilities vary throughout our Companies. Your work hours will be posted or communicated to you by your supervisor. You must obtain permission from your supervisor to start work earlier/later or to end work earlier/later than the posted or stated time. Operating hours may be changed or extended to better serve our customers or take advantage of daylight hours.

The normal payday is Friday for the previous workweek. Your supervisor will determine the time and method for the distribution of paychecks within your department or facility.

Overtime fill in with color like other bars

Employees eligible for overtime pay who work over forty (40) hours in a workweek will be compensated for overtime in accordance with federal and state laws. Paid time for holidays, vacation, personal days and other paid absences is not considered "time worked" for purposes of determining overtime compensation.

The nature of your job duties and business circumstances may require you to work overtime on a regular or occasional basis. You are expected to work overtime if required, unless excused by your supervisor. Hours worked in excess of your regular schedule must be approved in advance by your supervisor.

Overtime pay does not apply to employees whose job duties exempt them from overtime pay. These employees generally occupy administrative, professional, outside sales, executive and some computer-related positions.

Time Cards

Employees are required to record their time worked, usually through the use of a time clock or a time sheet. You must record your own time. You must not permit another employee to record your time and you may not record the time of another employee without approval from your supervisor. If you make a mistake recording your time, you should contact your supervisor or nearest member of management immediately to make the correction. The employee and supervisor or manager should initial corrections. At the end of your workweek, you must sign your time card or time sheet verifying that the time you entered is true and correct. Falsification and tampering with time records are serious matters that could lead to disciplinary action up to and including discharge.

Pay Advances and Loans

Employees are expected to be responsible for their own financial affairs and to budget their expenses wisely. Company policies expressly prohibit pay advances and loans to employees.

Deductions

The Company is required by federal and state laws to make certain deductions from your gross pay. Additionally, you may authorize certain other voluntary deductions.

Deductions which the Company is required to make every pay period include federal and state income tax (withholding tax), social security taxes and Medicare taxes. The Company may also be required to make deductions for past due federal and state income taxes, child support, garnishments and other deductions as directed by the courts or governmental agencies.

Voluntary deductions include group medical, life and disability insurance, 401(k) plan contributions, charitable contributions, additional federal or state income taxes and other deductions, which you may authorize.

Payroll deductions will be itemized on your paycheck stub or direct deposit notice. If you have any questions about your deductions, you should contact your supervisor or payroll administrator.

Wage and Salary Adjustments

It is the intent of the Company to maintain wage and salary rates that are competitive for similar work offered by other companies in the geographic area where our division operates. Wages and salaries are generally reviewed annually either on an anniversary or departmental basis. It is in the Company's discretion whether and when to award increases.

Benefits and Paid Time Off

Your paycheck is important but it does not represent all of the compensation you receive from the Company. Not only do you receive your wages each payday, you may also receive a substantial amount of employee benefits, which, while not paid in cash, still represent real dollars to you and your family. These benefits include various types of insurance, paid vacations, paid holidays and other paid time off.

Work schedules and routes are made in advance, so please request time off well ahead of time and have it approved by your supervisor.

Holidays

The Company observes the following five (5) paid holidays:

New Year's Day
Independence Day
Labor Day
Thanksgiving Day
Christmas Day

The following rules apply to the holiday pay benefit:

- In some locations where the Company operates, local governmental ordinances or business circumstances may require the observation of additional holidays or the observation of certain holidays at different times, and in such instances it may be necessary for the holiday schedule to be altered in those locations.

- If a paid holiday occurs on a Saturday or Sunday, the holiday may be observed on that day and paid during the following pay period.
- You must work the day before and the day after a holiday as well as any "make up" day to receive holiday pay, unless you are taking an approved personal or vacation day or otherwise have been excused by your supervisor.
- Because of the nature of our business and requirements of our customers, it may be necessary for employees to work on holidays. If you work on a holiday, you will receive pay for all hours worked in addition to holiday pay. If you are scheduled to work during a holiday and fail to do so, you may be subject to disciplinary action.
- If a Company observed, paid holiday occurs while you are on a scheduled vacation, you will be paid for the holiday as well as the vacation day.
- Employees on family and medical leaves, military duty, workers compensation leaves and other approved unpaid leaves of absence will not receive holiday pay.

Vacation

The Company encourages its employees to periodically take time off for rest and relaxation and provides its regular full-time employees with a paid vacation benefit based on length of service with the Company.

You will become eligible for the vacation benefit after one (1) year of continuous employment from your date of hire. Your vacation benefit accrues on your annual anniversary date according to the following schedule:

Completed Years of Continuous Service	Annual Vacation Days
After 1 year	Five (5) days
After 2 years	Ten (10) days
After 7 years	Fifteen (15) days

The following rules apply to the vacation benefit:

- Vacation time must be scheduled in advance and approved by your supervisor. You should submit your vacation request in writing to your supervisor for approval as soon you know your desired vacation dates.
- Your supervisor has no obligation to approve your vacation for the time you request. Consideration will be given to business needs, personnel requirements and other requests for absences. You may be required to take your vacation at another time.

- You must work the day before and the day after your vacation to receive vacation pay, unless you are taking a holiday, an approved personal day or otherwise have been excused by your supervisor.
- You can choose to receive part of your vacation benefit in pay instead of taking time off work if you have more than five (5) days of paid vacation available. This is often referred to as “selling” your vacation. You must take at least five (5) of your vacation days each year – you cannot sell those days. Request to “sell” your vacation must be submitted in writing and given to your supervisor.
- Vacation days do not accumulate and carry over from year-to-year. Any vacation days you have not used on your next anniversary date will be paid to you in the form of additional pay.
- Vacation time must be taken in minimum increments of one (1) day.
- Paid vacation time accruable in future periods may not be advanced.
- If a Company observed, paid holiday occurs while you are on a scheduled vacation, you will be paid for the vacation day as well as the holiday.
- Employees will be paid for unused vacation upon termination provided the employee is not discharged and gives a minimum of two (2) weeks notice.

Personal Days

The Company recognizes that employees need to have occasional paid time off for illness, religious holidays and other personal reasons. If you are a regular full-time employee, you will receive up to Six (6) paid personal days per year. Each employee must work two (2) months in order to receive one (1) personal day. New employees will be eligible at the end of their introductory period for personal days. You will be paid for any unused personal days at the end of each calendar year if you are still an employee of the Company at that time. Any unused personal days will be paid at the beginning of the following year as additional pay. Accrued personal days are not paid if your employment is terminated prior to the end of the calendar year.

Funeral

The Company recognizes the need for absence because of a death in the family. In the event of the death of a member of the immediate family (spouse, child, brother or sister of the employee, parent or grandparent of the employee), a two (2) day absence with pay will be automatically granted. If the funeral is held more than two hundred and fifty (250) miles from your home, you will be granted a third day absence with pay. It is further recognized that in some cases this is not sufficient time to handle necessary details and in such cases you may use your available personal or vacation days or you may

request additional time off without pay. Absences for funerals must have the prior approval of your supervisor and may require additional documentation upon your return to work.

Jury Duty

If you are subpoenaed for involuntary jury duty or as a witness in a court of law, you must notify your supervisor promptly of the time and place you are to appear. You are expected to return to work if you are dismissed from jury duty or complete your appearance before the end of your regularly scheduled workday. You will be paid the difference between your regular pay and the amount you receive from the court for up to three (3) days, during any twelve (12) month period, while serving on a jury or appearing in court during days which you would have been otherwise scheduled to work. You must give your original receipt showing the amount of pay received from the courts to your supervisor before you will receive any pay for jury duty.

Leaves of Absence

A leave of absence is an excused absence without pay. It may be granted to maintain continuity of service in cases that require you to be absent for a prolonged period. Accrued vacation and personal days will be used at the beginning of any leave of absence. A leave of absence should be requested in writing at least two (2) weeks in advance or with as much notice as practical and be approved by your supervisor.

Military Leave

An employee will be granted unpaid time off from employment to satisfy military reserve obligations and/or active military duty in accordance with federal and state law. Employees are required to give advance written or verbal notice of an absence for military service, unless circumstances make it unreasonable or impossible to do so. Employees should provide written notice as soon as possible to their immediate supervisor and the Human Resources Manager.

Employees are entitled to take a cumulative leave of absence for military service for up to 5 years. An employee may elect to use any accrued vacation or other paid leave during the military leave. If an employee elects to use accrued vacation, he or she will receive full vacation pay.

At the conclusion of military service, employees who wish to return to work with the Company must report to the Company, or submit an application for re-employment, within a certain time frame. The time frame required depends on your length of military service, so you should contact the Human Resources Manager immediately to discuss your deadline for re-employment. The Company, of course, will comply with all federal and state laws concerning employees' military rights and obligations, including those laws dealing with re-employment and benefit continuation rights. If you have any questions regarding such issues, you should contact the Human Resources Manager.

Family and Medical Leave

The Company's leave policies include benefits provided by the federal Family and Medical Leave Act (FMLA). Under the FMLA, an eligible employee may take up to 12 weeks of unpaid leave during a rolling calendar year:

(a) to care for the employee's child after birth, placement for adoption, or foster care;

(b) to care for the employee's spouse, child, or parent, who has a serious health condition (if the employee is needed to care for the family member); or

(c) for a serious health condition that makes the employee unable to perform the employee's job.

Under certain conditions, an employee may be entitled to take intermittent leave or to work on a reduced leave schedule.

To be eligible for the leave, an employee must have worked for the Company for at least one year, and for 1,250 hours over the previous 12 months. In addition, to be eligible for the leave, an employee must work at a worksite that employs 50 or more employees within a 75-mile radius.

An employee must give notice of the need for FMLA leave by advising his or her immediate supervisor at least 30 days before the leave when the leave is foreseeable. If 30 days' notice is not practicable because of an emergency or other circumstances, then the employee must advise the Company of the need for leave as soon as practicable (within no more than one or two working days of learning of the need). The employee will be required to explain the reason for the leave. The Company may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the Company's expense) and a fitness for duty report to return to work. Periodic reports may also be required during any leave.

During FMLA leave, the Company will maintain the employee's health insurance coverage on the same basis as coverage would have been provided if the employee had been employed during the leave. Employees must make arrangements with the Human Resources Manager to pay for any benefits normally payroll deducted while on leave, such as premium payments for group health insurance. Although other benefits will not accrue, the employee will not lose any benefit already accrued prior to the start of FMLA leave.

Failure of the employee to pay their insurance premiums will result in loss of coverage.

Upon return from FMLA leave, the employee will be restored to his or her original or an equivalent position with equivalent pay, benefits, and other employment terms, except

where not required by the FMLA. Employees who do not return to work promptly at the conclusion of approved leave will be presumed to have voluntarily resigned.

In order to return to work, employees must secure a doctor's release indicating that they may return to work. If the physician places restrictions on an employee's ability to return to work, Human Resources will evaluate whether the employee can return to their former job and whether an accommodation is necessary to permit the employee to do his or her job.

An employee will be required to substitute otherwise available paid leave for a portion of the unpaid FMLA leave. An employee must use available vacation time, sick leave, and family leave prior to using any available and/or approved unpaid leave. FMLA leave is subject to the provisions and limitations of the FMLA, whether or not the terms of the FMLA are specifically included in this Handbook. We welcome questions about FMLA leave, which should be directed to the Human Resources Manager.

Social Security Retirement System

You may receive a lifetime monthly pension based upon earnings and the number of years worked if you are covered under the Social Security Act. In addition to the amount you have deducted from your paycheck, the Company also matches your deduction dollar for dollar and pays it into your social security account.

Unemployment Compensation

The Company pays the entire cost of unemployment compensation insurance to provide a benefit to you in the unlikely event of a lay-off or other circumstances. You may receive a weekly benefit for a specified period of time while you search for other employment. Eligibility of qualifications is determined by the state where the claims are filed.

Workers' Compensation

When an on-the-job accident is determined to be in the course and scope of your employment, workers' compensation insurance covers the cost for your medical expenses and hospital care plus compensation for lost wages. The company pays the entire cost of this benefit. All injuries, no matter how superficial they may appear, should be reported immediately, and within twenty-four (24) hours, to your supervisor. Failure to promptly report an injury could jeopardize your workers' compensation benefits.

Pay Calculations for Benefits

Employees may, in certain instances, receive pay for unused vacation and personal days. It is usually necessary to determine the employee's daily or hourly rate to calculate the payment of this benefit. When the employee's rate is not stated as a daily or hourly rate, the equivalent daily or hourly rate will be calculated. Bonus pay, safety bonuses,

overtime and all other forms of additional pay will not be considered in the calculation of the rate used for the payment of benefits.

Health and Insurance Benefits

Eligibility

Eligibility for health insurance benefits is fairly simple. All full time, regular employees are eligible to enroll themselves and their dependents on the first of the month following ninety (90) days of active continuous employment. Your eligible dependents include your spouse and your unmarried children under age 19 or 25 (if a full time student in an accredited institution) who is legally dependent upon the Employee for at least fifty-one (51%) percent of support.. Children who are qualified mentally or physically disabled continue to be covered after age 19.

Medical Plan Options

Depending on where you live, you may have a choice of up to two (2) medical plan options – a Point of Service (“POS”), or a Preferred Provider Organization (“PPO”). The POS and PPO options offer a network of providers and varying degrees of coordination of care. All medical plans include a prescription drug plan. If you choose medical plan coverage, you will share the cost of the benefits through a payroll deduction. Your cost for this benefit represents a small portion of the Company’s total premium cost.

Dental Plan

Dental benefits are also offered, which covers preventative, restorative and orthodontic, care. The plan has a per person and family deductible with annual maximum and lifetime maximum for certain types of care. You will share in the cost of the dental benefits if you choose to be covered by this plan.

Enrollment

You will receive an Enrollment Kit during your Introductory Period. The kit will explain how the enrollment process works and includes details about the options you’re eligible to choose and the cost. If you want to participate, you must follow the directions in your kit and complete the enrollment process by the deadline specified in your enrollment material.

COBRA

COBRA refers to the Consolidated Omnibus Budget Reconciliation Act of 1985. If you are an employee of the Company covered by our medical insurance plan, you have the right to choose continued coverage at your expense if you lose your group health coverage because of a certain reduction in your hours of employment or the termination of your employment (for reasons other than gross misconduct on your part). Your eligible dependents may also have the right to elect and pay for continuation coverage for a

temporary period in certain circumstances where their coverage under the insurance plan would otherwise end. This notice is intended to inform you, in a summary fashion, of your rights and obligations under the continuation coverage provisions of the law.

Standards of Conduct

The purpose of these rules and regulations is not to restrict, but to define and protect all employees. Certain rules and regulations are required to safely and efficiently operate a business. As circumstances change, rules often must change. Therefore, the Company may from time to time amend these rules.

An employee is subject to disciplinary action, up to and including discharge, if any of the following rules are violated:

- Unsatisfactory work performance.
- Illegal gambling in any form while on Company premises or on company business.
- Failure of employee to give notification to or receive authorization from his or her supervisor before leaving the workstation, work site, or the job.
- Violation of Drug Free Workplace Policy.
- Limiting one's output or directly or indirectly encouraging another employee to cut down production.
- Failure to observe the ordinary rules of hygiene for sanitation or any special rules posted by the Company.
- Failure to comply with supervisory authority.
- Carelessness or neglect of duty in carrying out assignments or instructions from those in authority or insubordination of any kind.
- Falsification or withholding of facts on any Company records, including employment applications, time sheets, etc.
- Excessive absenteeism or excessive tardiness.
- Accepting payment or gifts for favoritism or services rendered other than gifts of nominal value (generally under \$25), which are customary during certain; holiday periods or for special occasions, such as birthdays.
- Failure to follow policies, procedures and guidelines contained in the employee handbook, posted on Company premises or property or otherwise distributed to its employees.

- Conviction of a serious crime, the nature of which would be considered to render an individual unreliable as an employee.
- Failure to follow safety rules and regulations.
- Conduct during work hours that could be construed as negative to our customers or the Company.
- Contracting with customers to perform work of any kind for them.
- Non-disclosure of interest in, or connection with any business that competes with the Company.
- Threatening, intimidating, coercing, or interfering with the performance of other employees.
- Engaging in such other practices inconsistent with the ordinary and reasonable rules of conduct necessary for the welfare of the Company, its employees or customers.
- Pilferage or theft of the property of the Company, customers, fellow employees or others.
- Fighting, disorderly, or immoral conduct on Company premises.
- Any solicitation in violation of Company policy.
- Carrying dangerous or concealed weapons.
- Sleeping on the job.
- Any form of unlawful harassment.
- Falsely stating or making claim of occupational or non-occupational injury or illness.
- Failure to report accidents immediately (including personal injury on the job).
- Horseplay.
- Discourtesy or impoliteness to Customers.
- Making false, vicious, profane, abusive or malicious statements.
- Holding unauthorized meetings on Company premises.
- Disregarding prescribed cash handling procedure.

- Disclosure, or use, of confidential information not available to the general public for personal gain or benefit.
- Possession of firearms or explosives or other weapons on Company premises (including parking areas used by Company employees or customers).
- Conduct off the job that could cause loss of business or customers
- Willful or careless destruction of Company property.

This list of Company rules is not necessarily a complete list of all activities that may result in disciplinary action.

JAX\688478_1 – Advanced Disposal – Employee Handbook

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION NO.
ADVANCED DISPOSAL)	3:07cv846-wkw
SERVICES ALABAMA L.L.C.,)	
d/b/a SUNFLOWER WASTE)	
L.L.C.,)	
)	
Defendant.)	

DECLARATION OF GLENN GUEST

My name is Glenn Guest. I have been Director, Corporate Human Resources, for Advanced Disposal Services for the last two years. In my job as Director, Corporate Human Resources, I have access to employee files and drug testing information. I am aware of the lawsuit filed by Robert Cannon, and this Declaration is based on my personal knowledge.

1. ADS provides waste management services throughout the Southeast including Alabama. ADS offers residential and commercial service, and ADS operates landfills to dispose of the garbage collected. Mr. Cannon worked in ADS' Tallassee facility as a residential driver driving a garbage truck.

2. ADS acquired a municipal contract that had been Waste Management's in late 2006. Mr. Cannon had driven on that contract for Waste

Management. ADS sought Waste Management drivers, such as Mr. Cannon, who knew the routes on the municipal contract. Drivers, like Mr. Cannon, who had worked for Waste Management, which had a DOT alcohol and drug testing program, were allowed to begin driving for ADS before ADS received the pre-employment drug test results. When Mr. Cannon started working for ADS, it had no knowledge of the failed drug test on file with Waste Management.

3. In late February or early March 2007, I was doing research on positive drug tests within the company. I was reviewing a list of employees with ADS who had tested positive for drugs or alcohol. I was ensuring that all employees who had failed a drug test had been discharged, and I noticed that Mr. Cannon had a failed drug test but had not been discharged. No other employees who had failed a drug test were still working for ADS. Therefore, I contacted Mr. Tom Davis (B), Director of Safety, and informed him that there was an active employee who had tested positive for drugs.

4. William Perry, Jr. (B) replaced Mr. Cannon. (Mr. Perry's hiring paperwork is attached as Exhibit 1).

5. Coke Conway (W) was hired as a driver on January 22, 2007, and continued to work as a driver after plaintiff's discharge. (Mr. Conway's Employment Records are attached as Exhibit 2). Mr. Conway never failed a drug or alcohol test required by ADS, and ADS had no knowledge of any failed drug or

alcohol tests by Mr. Conway while he worked for ADS. Mr. Conway (W) was in a vehicle accident but was not tested because of the minor nature of the accident, which did not require testing pursuant to DOT regulations. There was no medical treatment required by any persons involved in the accident and none of the vehicles had damages that prevented them from being driven.

6. Rueben Lowder (B) was in a vehicle accident and was subsequently drug tested pursuant to DOT regulations based on the severity of the accident. Mr. Lowder's drug test was negative.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of July, 2008.

A handwritten signature in blue ink, appearing to read "Glenn Guest", is written over a horizontal line.

Glenn Guest

Historic Available April

Company Code: SP2

Date: 06-16-2008

File Number: 422 **Name:** Perry Jr, William **Social Security Number:** 257-39-2220

PERSONAL INFORMATION:

Address:	4731 Pollman St	Gender:	M
	Columbus	Birth Date:	07/17/1981
	GA	Marital Status:	S
	31907	# of Dependents:	0
Home Phone #:	706-565-8783		
Status:	Active		
Hire Date:	04/02/2007	Years Of Service:	1:2
		Seniority Date:	04/02/2007 Sen Years: 1:2
Home Dept:	OSW030	Location:	OSW
Worker's Comp:	9403	Employee Type:	FT
EEO Ethnic Code:	Black	Assigned Shift:	1
		EEO OJT Class:	Production

ALLOCATION INFORMATION:

PAY RATE INFORMATION:

Rate Type: Daily	Rate 1: 128.7500	Effective Date: 04/14/2008
Rate 2:	128.7500	Rate 3: 128.7500 Pay Frequency: W
Rate Multiplier Code:	1.5 1.0	
Use Period End Date 1 (Pay Group1)		

TAX INFORMATION:

Federal Filing Status:	S	Federal Filing Exemptions:	0
W-2 Display for Qualified Pension:	Company Default		
State Worked In:	AL	Filing Status:	S
Exemptions/Allowances:	0	12th of Month:	Month 1
SUI/SDI Code:	03		

Not Owner/Officer

EXHIBIT 1

Company Code: SP2

Date: 07-01-2008

File Number: 403 Name: Conway Jr, Coke Social Security Number: 418-19-1212

PERSONAL INFORMATION:

Address: 5474 Lee Rd 390 Gender: M
 Opelika Birth Date: 05/11/1969
 AL Marital Status: S
 36804
 Home Phone #: 334-745-6784
 Status: Terminat
 Hire Date: 01/22/2007 Years Of Service: 0:11
 Termination Date: 12/28/2007 Reason: D Seniority Date: 01/22/2007 Sen Years: 1:5
 Status: N
 Home Dept: OSW030 Location: OSW
 Worker's Comp: 9403 Employee Type: FT Assigned Shift: 1
 EEO Ethnic Code: White EEO Occupation: Operative EEO OJT Class: Production

ALLOCATION INFORMATION:**PAY RATE INFORMATION:**

Rate Type: Daily Rate 1: 128.7500 Effective Date: 06/18/2007
 Rate 2: 128.7500 Rate 3: 128.7500 Pay Frequency: W
 Rate Multiplier Code: 1.5 1.0
 Use Period End Date 1 (Pay Group1)

TAX INFORMATION:

Federal Filing Status: S Federal Filing Exemptions: 2
 W-2 Display for Qualified Pension: Company Default
 State Worked In: AL Filing Status: S
 Exemptions/Allowances: 1 12th of Month: Month 1
 SUI/SDI Code: 03

Pay-by-Pay Workers' Compensation Classification:

Status	Type	Job Class Code	Description
	Not Owner/Officer		

EXHIBIT 2

DEPOSITION OF DANNY FUTRAL

April 11, 2008

Pages 1 through 44

PREPARED BY:

**Haislip, Ragan, Green, Starkie & Watson, P.C.
566 South Perry Street
Post Office Box 62
Montgomery, AL 36104
Phone: (334) 263-4455
Fax: (334) 263-9167
E-mail: haislipragan@charter.net**

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE MIDDLE DISTRICT OF ALABAMA 3 EASTERN DIVISION 4 5 ROBERT CANNON, 6 Plaintiff, 7 Vs. CIVIL ACTION NO. 8 3:07-CV-846-WKW 9 ADVANCED DISPOSAL SERVICES 10 ALABAMA, LLC, d/b/a SUNFLOWER 11 WASTE, LLC, 12 Defendant. 13 14 ***** 15 DEPOSITION OF DANNY FUTRAL, taken pursuant 16 to stipulation and agreement before Haley A. 17 Phillips, Certified Court Reporter, ACCR # 151, and 18 Commissioner for the State of Alabama at Large, in 19 the Law Offices of McNeal & Douglas, 1710 Catherine 20 Court, Auburn, Alabama, on Friday, April 11, 2008, 21 commencing at approximately 9:00 a.m. 22 23 *****</p>	<p style="text-align: right;">Page 3</p> <p>1 STIPULATION 2 It is hereby stipulated and agreed by and 3 between counsel representing the parties that the 4 deposition of DANNY FUTRAL is taken pursuant to the 5 Federal Rules of Civil Procedure and that said 6 deposition may be taken before Haley A. Phillips, 7 Certified Court Reporter, ACCR # 151, and 8 Commissioner for the State of Alabama at Large, 9 without the formality of a commission, that 10 objections to questions other than objections as to 11 the form of the question need not be made at this 12 time but may be reserved for a ruling at such time 13 as the said deposition may be offered in evidence 14 or used for any other purpose by either party 15 provided for by the Statute. 16 It is further stipulated and agreed by and 17 between counsel representing the parties in this 18 case that the filing of said deposition is hereby 19 waived and may be introduced at the trial of this 20 case or used in any other manner by either party 21 hereto provided for by the Statute regardless of 22 the waiving of the filing of the same. 23 It is further stipulated and agreed by and</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES 2 3 FOR THE PLAINTIFF: 4 James B. Douglas, Jr., Esq. 5 McNeal & Douglas 6 Suite B 7 1710 Catherine Court 8 Auburn, Alabama 36830 9 10 FOR THE DEFENDANT: 11 J. Tobias Dykes, Esq. 12 Constangy, Brooks & Smith 13 Attorneys at Law 14 1819 Fifth Avenue North 15 One Federal Place, Suite 900 16 Birmingham, Alabama 35203 17 18 ***** 19 20 EXAMINATION INDEX 21 BY MR. DOUGLAS 4 22 23 *****</p>	<p style="text-align: right;">Page 4</p> <p>1 between the parties hereto and the witness that the 2 signature of the witness to this deposition is 3 hereby not waived. 4 ***** 5 DANNY FUTRAL 6 The witness, after having first been duly 7 sworn to speak the truth, the whole truth and 8 nothing but the truth testified as follows: 9 EXAMINATION 10 BY MR. DOUGLAS: 11 Q. State your name, please, sir. 12 A. Danny C. Futral. 13 Q. Mr. Futral, my name is Jim Douglas. I 14 represent Robert Cannon. You and I haven't 15 met before today, have we? 16 A. No, sir. 17 Q. Have you ever given a deposition before? 18 A. Yes, sir. 19 Q. I'm going to ask you some questions this 20 morning. I'll do my best to ask good 21 questions. There will be times when I 22 don't do a good job of it. If you would 23 just let me know, I'll be happy to rephrase</p>

Page 5

1 my question, okay?

2 A. Yes, sir.

3 Q. If I ask a question and you answer it, I'll

4 assume you understood my question.

5 A. Yes, sir.

6 Q. Fair enough?

7 A. Fair enough.

8 Q. How many times other than today have you

9 given a deposition?

10 A. Twice.

11 Q. Tell me about those.

12 A. One, I was a -- I guess you'd call it site

13 manager for Waste Management in Alexander

14 City. Before I got there, there had been

15 an accident with one of our drivers. And

16 it went on and on and on for a couple of

17 years, and when finally it come up for

18 court, I had to go in and give a deposition

19 that I knew the guy and what was going on

20 and what had happened in the time frame I

21 had been there.

22 The other time was -- Again, I was a

23 manager in Montgomery, and one of our guys

Page 6

1 had a car accident that I had investigated

2 who had hit a car. And I had to go and

3 give a deposition for him. And that's the

4 only two times.

5 Q. So in both of those depositions, you

6 weren't one of the parties who were really

7 involved in the case?

8 A. No, sir.

9 Q. Have you ever sued anybody?

10 A. No, sir.

11 Q. Have you ever been sued?

12 A. No, sir.

13 Q. Where do you live?

14 A. Montgomery. Well, Marbury, Alabama.

15 Q. Give me the address, if you would, please.

16 A.

17

18 Q. How long have you lived there?

19 A. Since '92.

20 Q. Where did you live before then?

21 A. United States Army. Seattle.

22 Q. Washington?

23 A. Yes, sir.

Page 7

1 Q. How long were you there?

2 A. Nine years. And before that it was just

3 all over.

4 Q. When did you -- How long were you in the

5 Army?

6 A. 20 years.

7 Q. From when to when?

8 A. Lord. '72 to '92.

9 Q. And you were honorably discharged?

10 A. Yes, sir.

11 Q. What was your rank when you were

12 discharged?

13 A. I was a sergeant first class.

14 Q. Are you currently employed?

15 A. Yes, sir.

16 Q. Who with?

17 A. Advanced Disposal.

18 Q. How long have you been there?

19 A. Three years.

20 Q. What do you do there?

21 A. Site manager. A manager. They --

22 Supervisor, manager.

23 Q. What does that mean?

Page 8

1 A. I was over the residential section.

2 Q. Right. But what are your duties?

3 A. Sir?

4 Q. What are your duties? What do you do when

5 you come to work?

6 A. Supervise people, help them if they have

7 any questions, take care of them, take care

8 of their wants and needs, make sure they've

9 got the equipment to work with, making sure

10 their routes get picked up every day,

11 making sure that they're safe.

12 Q. Making sure who is safe?

13 A. The drivers are acting -- they're being

14 safe. Their vehicles are safe and all of

15 that.

16 Q. So you supervise the drivers?

17 A. Yes, sir.

18 Q. On the trucks are there drivers and

19 helpers?

20 A. Yes, sir.

21 Q. Do you super --

22 A. On some of the trucks, there's drivers and

23 a helper.

Page 9	Page 11
<p>1 Q. For the ones that there are, do you 2 supervise both the drivers and the helpers? 3 A. Yes, sir. 4 Q. So you would be their immediate boss? 5 Would that be fair to say? 6 A. Yes, sir. 7 Q. And who do you report to? 8 A. My supervisor, which was anybody over me. 9 Usually, it's the operations manager. 10 Q. Do you remember Robert Cannon? 11 A. Yes, sir. 12 Q. Who was your supervisor when Robert Cannon 13 worked for Advanced Disposal? 14 A. Russell Davis. 15 Q. Did you report to him? 16 A. Yes, sir. 17 Q. Did you report to anybody else? 18 A. Yes, sir. 19 Q. Who else? 20 A. Van Forester. He was the manager. 21 Q. Anybody else? 22 A. No. 23 Q. Did you have daily contact with those two</p>	<p>1 A. Yes, sir. On Highway 14. 2 Q. On the right or the left as you're headed 3 to Wetumpka? 4 A. Right. 5 Q. Have you ever been convicted of a felony? 6 A. No, sir. 7 Q. Have you ever filed for bankruptcy 8 protection? 9 A. No, sir. 10 Q. Are you taking any medications this 11 morning? 12 A. Lord, yes. 13 Q. Any of them that alter your memory? 14 A. Oh, no, sir. 15 Q. What are you taking? 16 A. I'm a heart patient. 17 Q. Okay. 18 A. And I have blood pressure medicine. And 19 that's it. 20 Q. Have you had heart surgery in the last 21 couple of years? 22 A. Yes, sir. 23 Q. When was that?</p>
Page 10	Page 12
<p>1 gentlemen that you just named that you 2 reported to? 3 A. Yes. Russell especially. 4 Q. Do you know where Russell is now? 5 A. I was -- No. 6 Q. Have you heard where he is? 7 A. Yes, sir. 8 Q. Tell me what you've heard. 9 A. Weldon. He lives on Weldon Road, and he 10 works for a recycling company on Highway 11 14 is what I was told. 12 Q. In Tallassee? 13 A. Yes, sir. 14 Q. Who told you that? 15 A. Just different people that knows him. 16 Q. And Weldon Road is in Tallassee, Alabama? 17 A. Yes, sir. 18 Q. And the recycling -- Do you know the 19 recycling company on Highway 14? 20 A. I don't know the name of it, but it's the 21 only one on 14. Right there close to 22 Wetumpka. 23 Q. So between Tallassee and Wetumpka?</p>	<p>1 A. Ninety -- It was either '98 or '99. And I 2 had open-heart surgery, five bypasses. 3 Q. And doing okay since? 4 A. Had a couple heart attacks since then. 5 Q. When was the last one? 6 A. It was more of an anxiety attack than 7 heart. That was about five years ago. 8 Q. How long did Robert Cannon work for 9 Advanced Disposal? 10 A. Exactly, I wouldn't know. 11 Q. Approximately? 12 A. Couple of weeks. 13 Q. What did you think of him as an employee? 14 A. Good employee. 15 Q. So you didn't have any complaints with his 16 performance? 17 A. No. 18 Q. Do you know why he was terminated? 19 A. Yes. 20 Q. How did you come across that information? 21 A. Given to me by Russell Davis. 22 Q. What did Russell tell you? 23 A. That he was positive on a drug test.</p>

Page 13

1 Q. And what did you say to Russell, if
2 anything?
3 A. I couldn't believe it. I was shocked. I
4 just hadn't -- had no idea.
5 Q. You were surprised that he had tested
6 positive?
7 A. (Witness nods head.)
8 Q. Is that yes?
9 A. Yes, sir. I'm sorry.
10 Q. I just need you to answer audibly --
11 A. Yeah, I understand.
12 Q. -- so she can get it down.
13 A. Yes, sir. I was surprised he was positive
14 on a drug test.
15 Q. Did Russell say anything to you about
16 giving him another test to try to keep him?
17 A. He said the social security number matched,
18 everything matched except there was a
19 discrimination (sic) with the first name.
20 I think is the way he said it. Or either
21 the last name. One of the names. And I
22 said, well, are we sure that's him. And he
23 said, yeah; I'm going to talk to Van.

Page 14

1 They come back and told me -- He come
2 back and told me that they was going to
3 give him another test. I was standing
4 there, as a matter of fact, when Van says,
5 retest him and make sure the name and
6 everything is correct. And that was, as
7 far as I know, how it went.
8 Q. Is that -- Have you told me everything you
9 remember about that conversation with
10 Mr. Davis?
11 A. Yes, sir.
12 Q. Regarding Mr. Cannon?
13 A. Yes, sir.
14 Q. Did you have any conversations either
15 before or after that with Mr. Davis
16 regarding Mr. Cannon?
17 A. He come back to me and -- Well, I had a
18 paper that was given to me by Red of a
19 personal drug test. And I carried it to
20 Russell and says, look, and showed it to
21 Russell. And Russell said -- Well,
22 supposedly he had been retested. And
23 Russell told me that he was -- he had to go

Page 15

1 ahead and terminate him anyway because of
2 the first drug test.
3 Q. Did Russell tell you what the second
4 company drug test was, whether it was
5 negative or positive?
6 A. No, sir. I assumed it was positive, but I
7 didn't know. I just -- He told me to
8 terminate him. I didn't have no choice but
9 to do that.
10 Q. If I represented to you that the second
11 drug test was negative taken by the
12 company, would that refresh your memory as
13 to whether you were ever told that or not?
14 A. No, sir.
15 Q. So you just assumed it was positive because
16 they told you they had to let him go?
17 A. Because of the first drug -- He had to be
18 let go because of the first drug test
19 because he associated (sic) positive on it.
20 Q. Okay. Any other conversations after that
21 regarding Mr. Cannon?
22 A. No, sir, not that I can remember. I mean,
23 I signed the paper and carried it back to

Page 16

1 Russell and told him I had terminated him,
2 so it could go in his file. But as far me
3 and him sitting down and specifically
4 talking about Red, no.
5 Q. Did -- Tell me what conversations you had
6 with Mr. Cannon after you found out -- when
7 you first found out that he had allegedly
8 tested positive for drugs.
9 A. I went to him. I asked him and he said,
10 no. And he said, I'm going to get one from
11 my private doctor. I said, whatever. And
12 when he brought that to me -- I mean, it
13 was, like, the next day he brought it to
14 me. And I sent it to Russell. And I went
15 back to Red. He said, what. I said, I'm
16 going to have to wait and see what's going
17 on. And that's when I told him, I said,
18 you're going to be retested. And he was
19 retested.
20 Q. What was your next conversation with
21 Mr. Cannon about this issue, if any?
22 A. That he had showed positive on the initial
23 drug test.

Page 17

1 Q. Right. But you had already told him that?
 2 A. It was pre-hire. Yeah. I gave him the
 3 results. I asked him if -- I asked him if
 4 the doctors had contacted him, because
 5 usually they do that --
 6 Q. And what did he say?
 7 A. -- before they ever contact us.
 8 No.
 9 Q. So Mr. Cannon told you that the doctors had
 10 not contacted him?
 11 A. Yeah.
 12 Q. Is that right?
 13 A. Yes, sir.
 14 See, it was -- At the same time,
 15 Russell -- Red was having some problems
 16 with his housing and he was on and off work
 17 because of his housing problem he had.
 18 They was evicting him. And I think it's
 19 back -- All that was going on about the
 20 same time with him.
 21 Q. After you had the conversation with
 22 Mr. Cannon telling him that he had tested
 23 positive on the first test and then later

Page 18

1 he brings you the test from his doctors --
 2 You said the next day; is that right?
 3 A. I think so. I'm not sure. It was the
 4 next -- It was right in there after that.
 5 Q. Tell me about your next conversation with
 6 Mr. Cannon about this issue, if there were
 7 any more conversations.
 8 A. I called him in when Russell told me to
 9 terminate him and told him, Red -- I said,
 10 Red, because of the initial positive, I've
 11 got to let you go. I said, I ain't got no
 12 choice about it. I've been told by my
 13 superior that you've got to go and --
 14 because of our policy at the company.
 15 He said, Danny, I wasn't positive. I
 16 said, all I know is the results. And I
 17 terminated him. And it -- I could tell it
 18 hurt him. You know, of course, it's going
 19 to hurt him.
 20 Q. How did you terminate him? Did you just
 21 tell him you're -- I've got to let you go?
 22 A. I've got to let you go, Red; I can't use
 23 you no more, you know, because of the drug

Page 19

1 test, company policy. And he says, all
 2 right. You know, I just -- He had just
 3 brought me his nephew to put him -- no, not
 4 nephew, I think -- to put him on the back
 5 of the truck.
 6 Q. What was his name?
 7 A. Willie Summers.
 8 Q. Is he with the company still?
 9 A. Still with the company.
 10 Q. What's he do?
 11 A. But I haven't -- He's a helper. Always
 12 been a helper. He can't get a driver's
 13 license, so ...
 14 Q. And did Mr. Cannon leave after you told
 15 him?
 16 A. Yes, he did.
 17 Q. Did he sign anything at that meeting with
 18 you?
 19 A. Termination paper. We have a form that we
 20 use, the termination paper. And we put on
 21 there why we let him go, and then I sign it
 22 and he signs it.
 23 Q. Okay. But he told you -- In that meeting

Page 20

1 when you told him he was terminated, he
 2 told you that he was not dirty?
 3 A. Check.
 4 Q. Is that -- Is that a yes?
 5 A. Yes, sir. I'm sorry.
 6 Q. I'm going to show you what was marked as
 7 Plaintiff's -- I'm sorry -- Defendant's
 8 Exhibits 13 and 14 to Mr. Cannon's
 9 deposition yesterday. I'm going to ask you
 10 if you recognize either one of those
 11 documents.
 12 A. I had seen this one.
 13 Q. Tell me which one this one is.
 14 A. This is the one that's got Troy Darby's
 15 signature on it.
 16 Q. Right. Tell me the number.
 17 MR. DYKES: Number 14.
 18 A. Oh, I'm sorry. Number 14.
 19 I don't know whether that's Troy's
 20 signature. I don't know Troy's signature.
 21 This is the one that was done that
 22 morning. It's completely different.
 23 Number --

Page 21

1 MR. DYKES: Number 13.
 2 A. -- 13 was the one that I remember using.
 3 Q. You said that's completely different?
 4 A. Well, the form is different. It's the same
 5 form -- type form, but it's different from
 6 the other one. And we used to use this.
 7 This was the old one.
 8 Q. You used to use 14?
 9 A. Yes, sir. And they switched to 13 mainly
 10 because of the stuff the driver turned in,
 11 if he had any of it.
 12 Q. Did Mr. Cannon sign either of those forms
 13 with you that day when you terminated him?
 14 A. Yes, sir. This one.
 15 Q. And what number is that?
 16 A. 13.
 17 Q. And what did you mean when you said that
 18 it's different? Does that have anything to
 19 do with Mr. Cannon or are --
 20 A. No, sir, it don't have nothing to do with
 21 Mr. Cannon. The type form.
 22 Q. You're saying that they switched the type
 23 forms they used before Mr. Cannon started

Page 22

1 working there?
 2 A. See, this is a termination form. 13.
 3 Q. Number 13.
 4 A. 14 is a disciplinary report that you would
 5 use to write up anybody. It don't
 6 necessarily mean that you're terminating
 7 anybody. This was a counseling is what I'm
 8 getting at. In other words, I can call
 9 anybody in and say, you did something this
 10 morning that was inexcusable; you failed --
 11 you didn't do what your supervisor told
 12 you, and check failure to follow
 13 instructions. It does not mean that I
 14 terminated him.
 15 You know, you can get three or four of
 16 these in your record, anybody can. If they
 17 do something wrong, their immediate
 18 supervisor can write them up.
 19 Q. So number four -- Defendant's Exhibit 14
 20 can be used for any type of discipline?
 21 A. Yes, sir.
 22 Q. Defendant's Exhibit 13 is exclusively the
 23 termination form?

Page 23

1 A. Used in termination, yes, sir. Final
 2 clearance for terminating employee.
 3 Q. And did Mr. Cannon sign Number 13?
 4 A. Yes, he did.
 5 Q. Do you -- Other than seeing his name on the
 6 paper, do you recall him signing it?
 7 A. Yes, I do.
 8 Q. And did you sign Defendant's Exhibit 13?
 9 A. Yes, sir. That's my signature.
 10 Q. Were there any other forms or documents
 11 that either you or Mr. Cannon signed with
 12 regard to his termination?
 13 A. Not that I can remember.
 14 Q. Well, I -- this is the only time I get to
 15 talk to you, so I want you to make sure
 16 that --
 17 A. No, sir, I don't think --
 18 Q. -- you search in your memory as good as you
 19 can.
 20 A. Yes, sir. Not that I can remember that he
 21 signed anything else. That's usually the
 22 only form that we would use.
 23 Q. At the time that Mr. Cannon was driving for

Page 24

1 the company, do you recall what the racial
 2 makeup of the drivers were?
 3 A. Five and one. I had one white driver and
 4 one, two -- five other employees. Yeah, I
 5 think it was five to one. Pretty well
 6 positive it was five to one.
 7 Q. Five black drivers and one white driver?
 8 A. Yes, sir. The blacks, all of them wasn't
 9 drivers. I had one that was not a driver.
 10 Q. All right. Well, let's back up. I want to
 11 talk about drivers first and then helpers.
 12 A. Okay.
 13 Q. What was the racial makeup of the drivers
 14 when Mr. Cannon worked there?
 15 A. Four and one.
 16 Q. Four blacks?
 17 A. Four blacks, one white.
 18 Q. Who was the white guy?
 19 A. Coke Conyers.
 20 Q. Conway?
 21 A. Conway. Yeah. I always do that.
 22 Q. Do you know where that -- Do you know where
 23 that guy is?

Page 25

1 A. Not now.
 2 Q. Do you know why he left the company?
 3 A. Told me he was having problems with one of
 4 the other drivers --
 5 Q. Did he tell you --
 6 A. -- helping him and all, you know, not
 7 giving him the -- not giving him the help
 8 when he needed it.
 9 Q. Did he name that driver?
 10 A. Uh-huh (positive response).
 11 Q. Who was it?
 12 A. Reggie.
 13 Q. Reggie who?
 14 A. I cannot think of his last name. I knew
 15 you was going to ask that.
 16 Q. Is he no longer with the company?
 17 A. He's still with the company.
 18 Q. Reggie is?
 19 A. Yes.
 20 Mosley.
 21 Q. Reggie Mosley.
 22 Now, the helpers at the point in time
 23 that Mr. Cannon worked for the company,

Page 26

1 what was the racial makeup?
 2 A. When he started, one; when he finished,
 3 two. One of them being his cousin. Willie
 4 Summers was a helper. He could not drive
 5 the truck. The other one was Joe, and he
 6 could not drive a truck. He had no
 7 license.
 8 Q. Were -- And what was the race of those
 9 gentleman?
 10 A. Sir?
 11 Q. Were those both black guys or were --
 12 A. Both black.
 13 Q. Those were the only two helpers?
 14 A. Yes, sir.
 15 Q. Mr. Cannon testified that at the point in
 16 time he worked there that Conway was a
 17 helper.
 18 A. No, sir.
 19 Q. You dispute that?
 20 A. Yes, sir.
 21 Q. You maintain he was driving the whole time
 22 Mr. Cannon was there?
 23 A. Not the whole time.

Page 27

1 Q. Okay. Well, straighten it out for me,
 2 because I wasn't there.
 3 A. When we hired people, what we wanted to do
 4 and what our goal was was to get driver,
 5 driver on a truck. All right.
 6 Q. And what do you mean by that?
 7 A. What I mean is -- Slings in an area like
 8 that, Phenix City, 12,600 customers, you
 9 can whip them in quick, one right after the
 10 other for three or four hours. What our
 11 goal was and to make things go faster was
 12 drive for a while and then swap.
 13 Q. In other words, you'll have two drivers on
 14 a truck and they'll both drive and they'll
 15 both help; is that right?
 16 A. Yes, sir. They rotate every so often.
 17 Preferably we like to use -- we tell them
 18 two to three -- two to three hours, you
 19 know. It's up to you; y'all work it out
 20 together. And that was the goal. Coke
 21 would drive awhile and he would sling
 22 awhile; then he'd drive awhile, he'd sling
 23 awhile. And I want to say he was with

Page 28

1 Harvey. And then he would get to where --
 2 I know one time I seen Coke and he says,
 3 hey, man, I'll just sling; it's easier for
 4 me slinging; I don't like driving up here
 5 in all these type alleys and stuff like
 6 that.
 7 And, of course, now, Willie Summers, he
 8 worked with Red. I figured that was
 9 smart. The two of them know each other,
 10 work well with each other. Let them work
 11 well.
 12 Q. So would it be fair to say that Mr. Conway
 13 was primarily a helper because he wanted to
 14 be? Is that what you're saying?
 15 A. No, sir, I'm not. I'm saying he was hired
 16 as a driver, and that's what I expected
 17 from him. Drive so often, dump so often;
 18 drive so often and dump so often. Rotate
 19 it and keep from killing him and Harvey.
 20 Q. Does Harvey still work for the company?
 21 A. No, sir.
 22 Q. What's his last name?
 23 A. Stanford, I think.

Page 29

1 Q. Do you know where he is?
 2 A. He should be around Opelika. The last time
 3 I heard he had a job in the Valley, but I
 4 can't really -- No, I don't really know
 5 exactly where he's at, but ...
 6 Q. Why did he leave the company?
 7 A. Better job.
 8 MR. DOUGLAS: Will y'all try to
 9 get me Harvey Stanford's
 10 address if you have it?
 11 MR. DYKES: Will you shoot me a
 12 letter when we get done with
 13 things you've asked for just
 14 so we make sure we get
 15 everything --
 16 MR. DOUGLAS: Of course.
 17 MR. DYKES: -- and are on the same
 18 page?
 19 Q. All right. After Mr. Cannon was
 20 terminated, who drove his truck?
 21 A. Lord. I want to say Harvey did.
 22 Q. I'll represent to you that Mr. Cannon
 23 testified yesterday that he saw Mr. Conway

Page 30

1 driving his truck. Do you dispute that?
 2 A. I had four trucks up there. He could have
 3 drove his truck. Does not mean he was on
 4 the same route. And, then again, he might
 5 have been on the same route. I don't know.
 6 Q. So is it fair to say you're not sure?
 7 A. Yes, sir.
 8 Q. Would you have any records at the office
 9 that would answer that question for us?
 10 A. I would think so. It's called a vehicle
 11 condition report.
 12 Q. Will you get those records up and get them
 13 to your attorney for me?
 14 A. Uh-huh (positive response).
 15 Q. Is that a yes?
 16 A. Yes, sir. The maintenance manager should
 17 have them.
 18 Q. Okay. But you'll go get them and get them
 19 to your lawyer for me?
 20 A. I will try to go get them and get them to
 21 my lawyer. I have a section in Montgomery
 22 that I work and I'm on the road every day.
 23 But I'll try my best to do that.

Page 31

1 Q. Okay. If you --
 2 A. I'll get somebody to get them to him for
 3 you.
 4 Q. That will work too.
 5 A. All right.
 6 Q. I appreciate it.
 7 Did you and Mr. Cannon ever have words
 8 on the job?
 9 A. No.
 10 Q. Did you ever cuss him?
 11 A. No.
 12 Q. Not once?
 13 A. Not once.
 14 Q. So if he testifies that you did, he's
 15 making that up?
 16 A. Yes, sir, he is.
 17 Q. You're saying that never happened?
 18 A. Never happened.
 19 Q. You never got angry with him at all?
 20 A. I ain't said I never got angry but I never
 21 cussed him.
 22 Q. Did you ever yell at him --
 23 A. No.

Page 32

1 Q. -- raise your voice?
 2 A. (Witness shakes head.)
 3 Q. Is that no?
 4 A. No.
 5 Q. So if he says you did, you would deny that?
 6 A. Yes, sir, I would.
 7 Q. Did you ever tell him that you were going
 8 to get Coke off the back of that truck?
 9 Did you ever say words to that effect?
 10 A. No.
 11 Q. That never happened?
 12 A. Never happened.
 13 Q. Did Mr. Cannon ever complain to you that he
 14 was having to help other people with their
 15 jobs but they weren't helping him with his?
 16 A. Yep.
 17 Q. Tell me about that.
 18 A. He was complaining because he said Reggie
 19 wouldn't help him. When we hired
 20 everybody, I had everybody at the table --
 21 Well, after Russell hired them, I'd give
 22 training to the guys. And I said, this is
 23 the way we're going to do it; three trucks

Page 33

1 go out in the morning, three trucks come in
2 together until we get these routes
3 situated. Then we'll fix them where -- You
4 know, once we got -- make sure we've got
5 them even, then it's on you to get your
6 route up. And that's the way it started.

7 Well, he didn't want to follow the
8 policy. And I told him, I said, we've got
9 to do it this way; three trucks go out in
10 the morning, three trucks come in
11 together. If you finished your route, you
12 call that other guy and make sure he's up.
13 If he's not up or he tells you, I've got
14 it; go on home, that's a different story.

15 Q. Was Reggie the only driver he was
16 complaining about?

17 A. Yes.

18 Q. And is Reggie white or black?

19 A. Black.

20 Q. Did you say anything to Reggie about --

21 A. A couple of times I talked to Reggie about
22 it. And even talked to Joe. And they was
23 picking up more homes than Red at the

Page 34

1 time. At the time if we had a problem,
2 Reggie and Joe was going in and fixing it.
3 What I mean by going in and fixing it,
4 picking up the extra.

5 Q. Extra garbage?

6 A. Yes, sir.

7 Q. So you thought the reason that Red was
8 getting finished faster was he was picking
9 up less homes?

10 A. Yes, sir. And he only wanted to work the
11 area he knew. He didn't really want to
12 work anything he didn't know, like, with a
13 map, you know, pick up this road here and
14 pick up this road here.

15 Q. Are you saying he refused to do that or --

16 A. He never refused to do anything.

17 Q. He just didn't want to?

18 A. Didn't want to.

19 Q. But he did what you told him?

20 A. Yes, sir, he did.

21 Q. And you were pleased with his work?

22 A. I ain't have no problems with his work. I
23 hated to lose him.

Page 35

1 Q. Was there ever a situation where Red's
2 truck was late getting on the road and he
3 wanted help to --

4 Hold on. Let me finish the question.

5 -- he wanted help on his route and you
6 didn't instruct or allow the other drivers
7 to help him?

8 A. No.

9 Q. Does that situation ring any type of a
10 bell?

11 A. No.

12 Q. Was there ever a situation where his truck
13 had to be repaired early in the morning and
14 he got a late start?

15 A. That's very well possible. I do not
16 remember.

17 Q. Did Mr. Cannon ever complain about you to
18 Mr. Russell Davis?

19 MR. DYKES: Object to the form.

20 A. Not that I know of. I don't know.
21 (Off-the-Record discussion.)

22 Q. Did Mr. Russell Davis ever speak to you
23 about a complaint made by Mr. Cannon?

Page 36

1 A. No, sir.

2 Q. Never?

3 A. Never.

4 Q. Did you and Mr. Cannon ever have any
5 conversations where he told you that he
6 complained to Mr. Davis about you?

7 A. No.

8 Q. So would it be fair to say as far as you
9 were concerned when you were instructed to
10 terminate Red you thought y'all were on
11 fine terms?

12 A. Yes, sir.

13 Q. Have you had any conversations with anybody
14 regarding this case?

15 MR. DYKES: Just to the extent --

16 Q. Other than counsel, obviously.

17 A. No.

18 Q. When did you first hear that there was a
19 case?

20 A. When he called me on the phone.

21 Q. He being ...

22 A. The lawyer.

23 Q. And I guess that would have been pretty

Page 37

1 recent, huh?

2 A. Yes, sir.

3 Q. Okay. So you haven't heard anything about

4 it until recently?

5 A. Yes, sir.

6 Q. Whose decision was it to terminate

7 Mr. Cannon? I know you did it, but who

8 gave the order?

9 A. Russell Davis.

10 Q. Do you know if the company still uses

11 St. Louis MRO, Inc., to test for drugs?

12 A. I do not know.

13 Q. Don't know one way or the other?

14 A. (Witness nods head.)

15 Q. Is that --

16 A. No, sir.

17 Q. I take it you're randomly drug tested?

18 A. Yes, sir.

19 Q. When was the last time?

20 A. For me?

21 Q. Yes, sir.

22 A. It was pre-hire. No, I take that back. I

23 have to do the random, also if I get my

Page 38

1 recertification, usually, if we do DOT. I

2 think mine was probably about a year ago,

3 my last one.

4 Q. Do you know a Mr. Reuben Lowder?

5 A. Yes, I know Reuben.

6 Q. Who is he?

7 A. He -- I hired him as a driver.

8 Q. Does he still work for the company?

9 A. No, sir.

10 Q. Why did he leave?

11 A. Same. I was told the same thing as

12 everybody else. Reggie would not help

13 him. And he was -- I honestly can't -- It

14 was hurting him. He was tired.

15 Q. From the work you mean?

16 A. Yes, sir. It was tiring.

17 Q. Did he ever have an accident while he was

18 working there?

19 A. Yes, he did.

20 Q. How long did he work there?

21 A. Roughly off the top of my head two months.

22 Q. Do you know if he was drug tested after the

23 accident?

Page 39

1 A. Yes, he was.

2 Q. Is it company policy that if a driver has

3 an accident they're to be drug tested?

4 A. Depends on the accident -- the severity of

5 the accident, if somebody was hurt or not.

6 Q. Is that the only factor?

7 A. No, sir. Somebody could be killed, one of

8 the vehicles cannot move, the policeman who

9 is investigating the accident says he wants

10 him drug tested. Then, of course, there's

11 random and his pre-hire.

12 Q. Well, what is the company policy with

13 regard to when a driver will be drug tested

14 after they have an accident, if you know

15 it?

16 A. I don't.

17 Q. Well, then why did you say that it depends

18 on how severe the accident is?

19 A. That's by DOT regulation.

20 Q. Do you know what those DOT regs are?

21 A. If he has one -- I was told if a vehicle

22 cannot be moved, somebody is -- I mean

23 cannot be drove away from the accident and

Page 40

1 if somebody is killed or the policeman at

2 the scene says do it.

3 Q. Do you know the results of Mr. Lowder's

4 drug test after the accident?

5 A. I was told negative.

6 Q. How long after the accident did -- before

7 he quit or ...

8 A. Maybe a month.

9 Q. Did Mr. Conway ever have an accident when

10 he was driving the truck?

11 A. I think so, yes.

12 Q. Do you know if he was drug tested after

13 that accident?

14 A. No, I don't know. I don't know whether he

15 was or not. I can't truthfully say.

16 Q. What do you know about that accident, if

17 anything?

18 A. I think he hit a pole or something. It was

19 something minor.

20 Q. Hit a what? I'm sorry?

21 A. Pole.

22 Q. Like a telephone pole?

23 A. Backed into a pole.

<p style="text-align: right;">Page 41</p> <p>1 Q. Like a telephone pole?</p> <p>2 A. I think so.</p> <p>3 Q. Was any damage done to the truck?</p> <p>4 A. No. Our trucks are in good shape.</p> <p>5 Q. Well, they can be in good shape and still</p> <p>6 have damage done to it. I mean --</p> <p>7 A. But we never had a problem.</p> <p>8 Q. Was there any other vehicles involved in</p> <p>9 that accident?</p> <p>10 A. I do not know. I cannot remember that.</p> <p>11 Q. Are there any of your answers that you need</p> <p>12 to change or add --</p> <p>13 A. I told you just like I -- just like I</p> <p>14 remember.</p> <p>15 Q. And have you remembered anything else since</p> <p>16 we've been talking about any of my earlier</p> <p>17 questions when you said you couldn't</p> <p>18 remember?</p> <p>19 A. No, sir.</p> <p>20 Q. Do you think your memory is as good today</p> <p>21 as it's going to be in nine --</p> <p>22 A. Yes, sir.</p> <p>23 Q. -- or ten months from now?</p>	<p style="text-align: right;">Page 43</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF ALABAMA:</p> <p>3 ELMORE COUNTY:</p> <p>4 I, Haley A. Phillips, Certified Court</p> <p>5 Reporter, ACCR # 151, and Commissioner for the</p> <p>6 State of Alabama at Large, do hereby certify that I</p> <p>7 reported the deposition of:</p> <p>8 DANNY FUTRAL</p> <p>9 who was first duly sworn by me to speak the truth,</p> <p>10 the whole truth and nothing but the truth, in the</p> <p>11 matter of:</p> <p>12 ROBERT CANNON,</p> <p>13 Plaintiff,</p> <p>14 vs.</p> <p>15 ADVANCED DISPOSAL SERVICES</p> <p>16 ALABAMA, LLC, d/b/a SUNFLOWER</p> <p>17 WASTE, LLC,</p> <p>18 Defendants.</p> <p>19 In The U.S. District Court</p> <p>20 For the Middle District of Alabama</p> <p>21 Eastern Division</p> <p>22 Case Number 3:07-CV-846-WKW</p> <p>23 on Friday, April 11, 2008.</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Yes, sir.</p> <p>2 Q. All right. That's all the questions I have</p> <p>3 for you. I appreciate you coming in.</p> <p>4 * * * * *</p> <p>5 FURTHER DEPONENT SAITH NOT</p> <p>6 * * * * *</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">Page 44</p> <p>1 The foregoing 43 computer-printed pages</p> <p>2 contain a true and correct transcript of the</p> <p>3 examination of said witness by counsel for the</p> <p>4 parties set out herein. The reading and signing of</p> <p>5 same is hereby waived.</p> <p>6 I further certify that I am neither of kin</p> <p>7 nor of counsel to the parties to said cause nor in</p> <p>8 any manner interested in the results thereof.</p> <p>9 This 2nd day of May 2008.</p> <p>10</p> <p>11</p> <p>12</p> <p>13 <u>Haley A. Phillips, ACCR #151</u></p> <p>14 Expiration Date: 9/30/08</p> <p>15 Certified Court Reporter and</p> <p>16 Commissioner for the State</p> <p>17 of Alabama at Large</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

<p>A</p> <p>about 5:11 12:7 13:15 14:9 16:4,21 17:19 18:5,6,12 24:11 32:17 33:16,20,21 35:17,23 36:6 37:3 38:2 40:16 41:16</p> <p>accident 5:15 6:1 38:17 38:23 39:3,4,5,9,14 39:18,23 40:4,6,9,13 40:16 41:9</p> <p>ACCR 1:17 3:7 43:5 44:13</p> <p>across 12:20</p> <p>acting 8:13</p> <p>ACTION 1:7</p> <p>add 41:12</p> <p>address 6:15 29:10</p> <p>Advanced 1:8 7:17 9:13 12:9 43:15</p> <p>after 4:6 14:15 15:20 16:6 17:21 18:4 19:14 27:9 29:19 32:21 38:22 39:14 40:4,6,12</p> <p>again 5:22 30:4</p> <p>ago 12:7 38:2</p> <p>agreed 3:2,16,23</p> <p>agreement 1:16</p> <p>ahead 15:1</p> <p>ain't 18:11 31:20 34:22</p> <p>Alabama 1:2,8,18,20 2:5,10 3:8 6:14,16 10:16 43:2,6,16,20 44:15</p> <p>Alexander 5:13</p> <p>allegedly 16:7</p> <p>alleys 28:5</p> <p>allow 35:6</p> <p>already 17:1</p> <p>alter 11:13</p> <p>always 19:11 24:21</p> <p>angry 31:19,20</p> <p>another 13:16 14:3</p> <p>answer 5:3 13:10 30:9</p> <p>answers 41:11</p> <p>anxiety 12:6</p> <p>anybody 6:9 9:8,17,21 22:5,7,9,16 36:13</p> <p>anything 13:2,15 19:17 21:18 23:21 33:20 34:12,16 37:3 40:17 41:15</p> <p>anyway 15:1</p> <p>APPEARANCES 2:1</p> <p>appreciate 31:6 42:3</p> <p>approximately 1:21 12:11</p>	<p>April 1:20 43:23</p> <p>area 27:7 34:11</p> <p>Army 6:21 7:5</p> <p>around 29:2</p> <p>asked 16:9 17:3,3 29:13</p> <p>associated 15:19</p> <p>assume 5:4</p> <p>assumed 15:6,15</p> <p>attack 12:6</p> <p>attacks 12:4</p> <p>attorney 30:13</p> <p>Attorneys 2:8</p> <p>Auburn 1:20 2:5</p> <p>audibly 13:10</p> <p>Avenue 2:9</p> <p>away 39:23</p> <p>awhile 27:21,22,22,23 a.m 1:21</p> <p>B</p> <p>B 2:3,4</p> <p>back 14:1,2,17 15:23 16:15 17:19 19:4 24:10 32:8 37:22</p> <p>Backed 40:23</p> <p>bankruptcy 11:7</p> <p>before 1:16 3:6 4:15,17 5:14 6:20 7:2 14:15 17:7 21:23 40:6</p> <p>being 8:13 26:3 36:21</p> <p>believe 13:3</p> <p>bell 35:10</p> <p>best 4:20 30:23</p> <p>Better 29:7</p> <p>between 3:3,17 4:1 10:23</p> <p>Birmingham 2:10</p> <p>black 24:7 26:11,12 33:18,19</p> <p>blacks 24:8,16,17</p> <p>blood 11:18</p> <p>boss 9:4</p> <p>both 6:5 9:2 26:11,12 27:14,15</p> <p>brings 18:1</p> <p>Brooks 2:8</p> <p>brought 16:12,13 19:3</p> <p>bypasses 12:2</p> <p>C</p> <p>C 4:12</p> <p>call 5:12 22:8 33:12</p> <p>called 18:8 30:10 36:20</p> <p>Cannon 1:5 4:14 9:10 9:12 12:8 14:12,16 15:21 16:6,21 17:9 17:22 18:6 19:14 21:12,19,21,23 23:3</p>	<p>23:11,23 24:14 25:23 26:15,22 29:19,22 31:7 32:13 35:17,23 36:4 37:7 43:12</p> <p>Cannon's 20:8</p> <p>car 6:1,2</p> <p>care 8:7,7</p> <p>carried 14:19 15:23</p> <p>case 3:18,20 6:7 36:14 36:19 43:22</p> <p>Catherine 1:19 2:5</p> <p>cause 44:7</p> <p>CERTIFICATE 43:1</p> <p>Certified 1:17 3:7 43:4 44:14</p> <p>certify 43:6 44:6</p> <p>change 41:12</p> <p>check 20:3 22:12</p> <p>choice 15:8 18:12</p> <p>City 5:14 27:8</p> <p>Civil 1:7 3:5</p> <p>class 7:13</p> <p>clearance 23:2</p> <p>close 10:21</p> <p>Coke 24:19 27:20 28:2 32:8</p> <p>come 5:17 8:5 12:20 14:1,1,17 33:1,10</p> <p>coming 42:3</p> <p>commencing 1:21</p> <p>commission 3:9</p> <p>Commissioner 1:18 3:8 43:5 44:14</p> <p>company 10:10,19 15:4 15:12 18:14 19:1,8,9 24:1 25:2,16,17,23 28:20 29:6 37:10 38:8 39:2,12</p> <p>complain 32:13 35:17</p> <p>complained 36:6</p> <p>complaining 32:18 33:16</p> <p>complaint 35:23</p> <p>complaints 12:15</p> <p>completely 20:22 21:3</p> <p>computer-printed 44:1</p> <p>concerned 36:9</p> <p>condition 30:11</p> <p>Constangy 2:8</p> <p>contact 9:23 17:7</p> <p>contacted 17:4,10</p> <p>contain 44:2</p> <p>conversation 14:9 16:20 17:21 18:5</p> <p>conversations 14:14 15:20 16:5 18:7 36:5 36:13</p> <p>convicted 11:5</p> <p>Conway 24:20,21</p>	<p>26:16 28:12 29:23 40:9</p> <p>Conyers 24:19</p> <p>correct 14:6 44:2</p> <p>counsel 3:3,17 36:16 44:3,7</p> <p>counseling 22:7</p> <p>County 6:16 43:3</p> <p>couple 5:16 11:21 12:4 12:12 33:21</p> <p>course 18:18 28:7 29:16 39:10</p> <p>court 1:1,17,20 2:5 3:7 5:18 43:4,19 44:14</p> <p>cousin 26:3</p> <p>currently 7:14</p> <p>cuss 31:10</p> <p>cussed 31:21</p> <p>customers 27:8</p> <p>D</p> <p>daily 9:23</p> <p>damage 41:3,6</p> <p>Danny 1:15 3:4 4:5,12 18:15 43:8</p> <p>Darby's 20:14</p> <p>Date 44:13</p> <p>Davis 9:14 12:21 14:10 14:15 35:18,22 36:6 37:9</p> <p>day 8:10 16:13 18:2 21:13 30:22 44:9</p> <p>decision 37:6</p> <p>Defendant 1:10 2:6</p> <p>Defendants 43:18</p> <p>Defendant's 20:7 22:19 22:22 23:8</p> <p>deny 32:5</p> <p>depends 39:4,17</p> <p>DEPONENT 42:5</p> <p>deposition 1:15 3:4,6 3:13,18 4:2,17 5:9,18 6:3 20:9 43:7</p> <p>depositions 6:5</p> <p>different 10:15 20:22 21:3,4,5,18 33:14</p> <p>dirty 20:2</p> <p>discharged 7:9,12</p> <p>disciplinary 22:4</p> <p>discipline 22:20</p> <p>discrimination 13:19</p> <p>discussion 35:21</p> <p>Disposal 1:8 7:17 9:13 12:9 43:15</p> <p>dispute 26:19 30:1</p> <p>District 1:1,2 43:19,20</p> <p>Division 1:3 43:21</p> <p>doctor 16:11</p> <p>doctors 17:4,9 18:1</p>	<p>documents 20:11 23:10</p> <p>doing 12:3</p> <p>done 20:21 29:12 41:3 41:6</p> <p>DOT 38:1 39:19,20</p> <p>Douglas 1:19 2:3,4,15 4:10,13 29:8,16</p> <p>down 13:12 16:3</p> <p>drive 26:4,6 27:12,14 27:21,22 28:17,18</p> <p>driver 21:10 24:3,7,9 25:9 27:4,5 28:16 33:15 38:7 39:2,13</p> <p>drivers 5:15 8:13,16,18 8:22 9:2 24:2,7,9,11 24:13 25:4 27:13 35:6</p> <p>driver's 19:12</p> <p>driving 23:23 26:21 28:4 30:1 40:10</p> <p>drove 29:20 30:3 39:23</p> <p>drug 12:23 13:14 14:19 15:2,4,11,17,18 16:23 18:23 37:17 38:22 39:3,10,13 40:4,12</p> <p>drugs 16:8 37:11</p> <p>duly 4:6 43:9</p> <p>dump 28:17,18</p> <p>duties 8:2,4</p> <p>Dykes 2:7 20:17 21:1 29:11,17 35:19 36:15</p> <p>d/b/a 1:8 43:16</p> <p>E</p> <p>each 28:9,10</p> <p>earlier 41:16</p> <p>early 35:13</p> <p>easier 28:3</p> <p>Eastern 1:3 43:21</p> <p>effect 32:9</p> <p>either 3:14,20 12:1 13:20 14:14 20:10 21:12 23:11</p> <p>ELMORE 43:3</p> <p>employed 7:14</p> <p>employee 12:13,14 23:2</p> <p>employees 24:4</p> <p>enough 5:6,7</p> <p>equipment 8:9</p> <p>especially 10:3</p> <p>Esq 2:3,7</p> <p>even 33:5,22</p> <p>ever 4:17 6:9,11 11:5,7 15:13 17:7 31:7,10 31:22 32:7,9,13 35:1 35:12,17,22 36:4 38:17 40:9</p>
--	--	---	---	--

every 8:10 27:16 30:22 everybody 32:20,20 38:12 everything 13:18 14:6 14:8 29:15 evicting 17:18 evidence 3:13 exactly 12:10 29:5 examination 2:14 4:9 44:3 except 13:18 exclusively 22:22 Exhibit 22:19,22 23:8 Exhibits 20:8 expected 28:16 Expiration 44:13 extent 36:15 extra 34:4,5	24:17 27:10 30:2 frame 5:20 Friday 1:20 43:23 from 7:7 16:10 18:1 21:5 28:17,19 38:15 39:23 41:23 further 3:16,23 42:5 44:6 Futral 1:15 3:4 4:5,12 4:13 43:8	helper 8:23 19:11,12 26:4,17 28:13 helpers 8:19 9:2 24:11 25:22 26:13 helping 25:6 32:15 hereto 3:21 4:1 hey 28:3 Highway 10:10,19 11:1 him 6:3 9:15 10:15 12:13 13:16,16,22 14:3,5 15:1,8,16 16:1 16:1,3,9,9,17 17:1,2 17:3,3,4,10,18,20,22 18:8,9,9,17,18,19,20 18:21 19:3,4,15,21 20:1 21:13 22:14 23:6 25:6,7,7 28:17 28:19 31:2,10,19,21 31:22 32:7,15,19 33:8 34:19,23 35:7 38:7,13,14 39:10 hired 27:3 28:15 32:19 32:21 38:7 hit 6:2 40:18,20 Hold 35:4 home 33:14 homes 33:23 34:9 honestly 38:13 honorably 7:9 hours 27:10,18 housing 17:16,17 huh 37:1 hurt 18:18,19 39:5 hurting 38:14	Joe 26:5 33:22 34:2 Jr 2:3 just 4:23 7:2 10:1,15 13:4,10 15:7,15 18:20 19:2,2 28:3 29:13 34:17 36:15 41:13,13	Louis 37:11 Lowder 38:4 Lowder's 40:3
F	G	I	K	M
fact 14:4 factor 39:6 failed 22:10 failure 22:12 fair 5:6,7 9:5 28:12 30:6 36:8 far 14:7 16:2 36:8 faster 27:11 34:8 Federal 2:9 3:5 felony 11:5 Fifth 2:9 figured 28:8 file 16:2 filed 11:7 filing 3:18,22 Final 23:1 finally 5:17 fine 36:11 finish 35:4 finished 26:2 33:11 34:8 first 4:6 7:13 13:19 15:2,17,18 16:7 17:23 24:11 36:18 43:9 five 12:2,7 24:3,4,5,6,7 fix 33:3 fixing 34:2,3 follow 22:12 33:7 follows 4:8 foregoing 44:1 Forester 9:20 form 3:11 19:19 21:4,5 21:5,21 22:2,23 23:22 35:19 formality 3:9 forms 21:12,23 23:10 found 16:6,7 four 22:15,19 24:15,16	garbage 34:5 gave 17:2 37:8 gentleman 26:9 gentlemen 10:1 getting 22:8 34:8 35:2 give 5:18 6:3,15 14:3 32:21 given 4:17 5:9 12:21 14:18 giving 13:16 25:7,7 go 5:18 6:2 14:23 15:16 15:18 16:2 18:11,13 18:21,22 19:21 27:11 30:18,20 33:1,9,14 goal 27:4,11,20 going 4:19 5:19 13:23 14:2 16:10,16,16,18 17:19 18:18 20:6,9 25:15 32:7,23 34:2,3 41:21 good 4:20,22 12:14 23:18 41:4,5,20 guess 5:12 36:23 guy 5:19 24:18,23 33:12 guys 5:23 26:11 32:22	idea 13:4 immediate 9:4 22:17 Inc 37:11 INDEX 2:14 inexcusable 22:10 information 12:20 initial 16:22 18:10 instruct 35:6 instructed 36:9 instructions 22:13 interested 44:8 introduced 3:19 investigated 6:1 investigating 39:9 involved 6:7 41:8 issue 16:21 18:6	keep 13:16 28:19 killed 39:7 40:1 killing 28:19 kin 44:6 knew 5:19 25:14 34:11 know 4:23 10:4,18,20 12:10,18 14:7 15:7 18:16,18,23 19:2 20:19,20 22:15 24:22 24:22 25:2,6 27:19 28:2,9 29:1,4 30:5 33:4 34:12,13 35:20 35:20 37:7,10,12,13 38:4,5,22 39:14,20 40:3,12,14,14,16 41:10 knows 10:15	made 3:11 35:23 mainly 21:9 maintain 26:21 maintenance 30:16 make 8:8 14:5 23:15 27:11 29:14 33:4,12 makeup 24:2,13 26:1 making 8:9,11,12 31:15 man 28:3 Management 5:13 manager 5:13,23 7:21 7:21,22 9:9,20 30:16 manner 3:20 44:8 many 5:8 map 34:13 Marbury 6:14,16 marked 20:6 matched 13:17,18 matter 14:4 43:11 may 3:6,12,13,19 44:9 Maybe 40:8 McNeal 1:19 2:4 mean 7:23 15:22 16:12 21:17 22:6,13 27:6,7 30:3 34:3 38:15 39:22 41:6 medications 11:10 medicine 11:18 meeting 19:17,23 memory 11:13 15:12 23:18 41:20 Middle 1:2 43:20 might 30:4 mine 38:2 minor 40:19 Montgomery 5:23 6:14 30:21 month 40:8 months 38:21 41:23 more 12:6 18:7,23 33:23 morning 4:20 11:11 20:22 22:10 33:1,10 35:13 Mosley 25:20,21 move 39:8 moved 39:22 MRO 37:11
	H	J	L	N
	Haley 1:16 3:6 43:4 44:13 happened 5:20 31:17 31:18 32:11,12 happy 4:23 Harvey 28:1,19,20 29:9,21 hated 34:23 having 4:6 17:15 25:3 32:14 head 13:7 32:2 37:14 38:21 headed 11:2 hear 36:18 heard 10:6,8 29:3 37:3 heart 11:16,20 12:4,7 help 8:6 25:7 27:15 32:14,19 35:3,5,7 38:12	J 2:7 James 2:3 Jim 4:13 job 4:22 29:3,7 31:8 jobs 32:15	Large 1:18 3:8 43:6 44:15 last 11:20 12:5 13:21 25:14 28:22 29:2 37:19 38:3 late 35:2,14 later 17:23 Law 1:19 2:8 lawyer 30:19,21 36:22 leave 19:14 29:6 38:10 left 11:2 25:2 less 34:9 let 4:23 15:16,18 18:11 18:21,22 19:21 28:10 35:4 letter 29:12 let's 24:10 license 19:13 26:7 like 16:13 27:7,17 28:4 28:5 34:12 40:22 41:1,13,13 live 6:13,20 lived 6:18 lives 10:9 LLC 1:8,9 43:16,17 long 6:18 7:1,4,18 12:8 38:20 40:6 longer 25:16 look 14:20 Lord 7:8 11:12 29:21 lose 34:23	name 4:11,13 10:20 13:19,21 14:5 19:6

<p>23:5 25:9,14 28:22 named 10:1 names 13:21 necessarily 22:6 need 3:11 13:10 41:11 needed 25:8 needs 8:8 negative 15:5,11 40:5 neither 44:6 nephew 19:3,4 never 31:17,18,19,20 31:20 32:11,12 34:16 36:2,3 41:7 next 16:13,20 18:2,4,5 nine 7:2 41:21 Ninety 12:1 nods 13:7 37:14 North 2:9 nothing 4:8 21:20 43:10 number 13:17 20:16,17 20:18,23 21:1,15 22:3,19 23:3 43:22</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>Object 35:19 objections 3:10,10 obviously 36:16 off 17:16 32:8 38:21 offered 3:13 office 30:8 Offices 1:19 Off-the-Record 35:21 often 27:16 28:17,17 28:18,18 Oh 11:14 20:18 okay 5:1 11:17 12:3 15:20 19:23 24:12 27:1 30:18 31:1 37:3 old 21:7 once 31:12,13 33:4 one 2:9 5:12,15,23 6:6 10:21 12:5 13:21 16:10 20:10,12,13,13 20:14,21 21:2,6,7,14 24:3,3,4,5,6,7,9,15 24:17 25:3 26:2,3,5 27:9 28:2 37:13 38:3 39:7,21 ones 9:1 only 6:4 10:21 23:14,22 26:13 33:15 34:10 39:6 Opelika 29:2 open-heart 12:2 operations 9:9 order 37:8 other 3:10,14,20 5:8,22 15:20 21:6 22:8 23:5</p>	<p>23:10 24:4 25:4 26:5 27:10,13 28:9,10 32:14 33:12 35:6 36:16 37:13 41:8 out 16:6,7 27:1,19 33:1 33:9 44:4 over 7:3 8:1 9:8</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>page 29:18 pages 44:1 paper 14:18 15:23 19:19,20 23:6 parties 3:3,17 4:1 6:6 44:4,7 party 3:14,20 patient 11:16 people 8:6 10:15 27:3 32:14 performance 12:16 personal 14:19 Phenix 27:8 Phillips 1:17 3:6 43:4 44:13 phone 36:20 pick 34:13,14 picked 8:10 picking 33:23 34:4,8 Place 2:9 Plaintiff 1:6 2:2 43:13 Plaintiff's 20:7 please 4:11 6:15 pleased 34:21 point 25:22 26:15 pole 40:18,21,22,23 41:1 policeman 39:8 40:1 policy 18:14 19:1 33:8 39:2,12 positive 12:23 13:6,13 15:5,6,15,19 16:8,22 17:23 18:10,15 24:6 25:10 30:14 possible 35:15 Preferably 27:17 pressure 11:18 pretty 24:5 36:23 pre-hire 17:2 37:22 39:11 primarily 28:13 private 16:11 probably 38:2 problem 17:17 34:1 41:7 problems 17:15 25:3 34:22 Procedure 3:5 protection 11:8 provided 3:15,21</p>	<p>purpose 3:14 pursuant 1:15 3:4 put 19:3,4,20</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 3:11 5:1,3,4 30:9 35:4 questions 3:10 4:19,21 8:7 41:17 42:2 quick 27:9 quit 40:7</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>race 26:8 racial 24:1,13 26:1 raise 32:1 random 37:23 39:11 randomly 37:17 rank 7:11 reading 44:4 really 6:6 29:4,4 34:11 reason 34:7 recall 23:6 24:1 recent 37:1 recently 37:4 recertification 38:1 recognize 20:10 record 22:16 records 30:8,12 recycling 10:10,18,19 Red 14:18 16:4,15 17:15 18:9,10,22 28:8 33:23 34:7 36:10 Red's 35:1 refresh 15:12 refused 34:15,16 regard 23:12 39:13 regarding 14:12,16 15:21 36:14 regardless 3:21 Reggie 25:12,13,18,21 32:18 33:15,18,20,21 34:2 38:12 regs 39:20 regulation 39:19 remember 9:10 14:9 15:22 21:2 23:13,20 35:16 41:10,14,18 remembered 41:15 repaired 35:13 rephrase 4:23 report 9:7,15,17 22:4 30:11 reported 10:2 43:7 Reporter 1:17 3:7 43:5 44:14 REPORTER'S 43:1 represent 4:14 29:22</p>	<p>represented 15:10 representing 3:3,17 reserved 3:12 residential 8:1 response 25:10 30:14 results 17:3 18:16 40:3 44:8 retest 14:5 retested 14:22 16:18,19 Reuben 38:4,5 right 8:2 10:21 11:2,4 17:1,12 18:2,4 19:2 20:16 24:10 27:5,9 27:15 29:19 31:5 42:2 ring 35:9 road 6:16 10:9,16 30:22 34:13,14 35:2 Robert 1:5 4:14 9:10 9:12 12:8 43:12 rotate 27:16 28:18 Roughly 38:21 route 30:4,5 33:6,11 35:5 routes 8:10 33:2 Rules 3:5 ruling 3:12 Russell 9:14 10:3,4 12:21,22 13:1,15 14:20,21,21,23 15:3 16:1,14 17:15 18:8 32:21 35:18,22 37:9</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safe 8:11,12,14,14 SAITH 42:5 same 3:22 17:14,20 21:4 29:17 30:4,5 38:11,11 44:5 saw 29:23 saying 21:22 28:14,15 31:17 34:15 says 14:4,20 19:1 28:2 32:5 39:9 40:2 scene 40:2 search 23:18 Seattle 6:21 second 15:3,10 section 8:1 30:21 security 13:17 see 16:16 17:14 22:2 seeing 23:5 seen 20:12 28:2 sent 16:14 sergeant 7:13 SERVICES 1:8 43:15 set 44:4 severe 39:18 severity 39:4</p>	<p>shakes 32:2 shape 41:4,5 shocked 13:3 shoot 29:11 show 20:6 showed 14:20 16:22 sic 13:19 15:19 sign 19:17,21 21:12 23:3,8 signature 4:2 20:15,20 20:20 23:9 signed 15:23 23:11,21 signing 23:6 44:4 signs 19:22 since 6:19 12:3,4 41:15 sir 4:11,16,18 5:2,5 6:8 6:10,12,23 7:10,15 8:3,17,20 9:3,6,11,16 9:18 10:7,13,17 11:1 11:6,9,14,22 13:9,13 14:11,13 15:6,14,22 17:13 20:5 21:9,14 21:20 22:21 23:1,9 23:17,20 24:8 26:10 26:14,18,20 27:16 28:15,21 30:7,16 31:16 32:6 34:6,10 34:20 36:1,12 37:2,5 37:16,18,21 38:9,16 39:7 41:19,22 42:1 site 5:12 7:21 sitting 16:3 situated 33:3 situation 35:1,9,12 sling 27:21,22 28:3 slinging 27:7 28:4 smart 28:9 Smith 2:8 social 13:17 some 4:19 8:22 17:15 somebody 31:2 39:5,7 39:22 40:1 something 22:9,17 40:18,19 sorry 13:9 20:5,7,18 40:20 speak 4:7 35:22 43:9 specifically 16:3 St 37:11 standing 14:3 Stanford 28:23 Stanford's 29:9 start 35:14 started 21:23 26:2 33:6 State 1:18 3:8 4:11 43:2,6 44:14 States 1:1 6:21 Statute 3:15,21 still 19:8,9 25:17 28:20</p>
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Deposition of Danny Futral

Page 4

37:10 38:8 41:5 stipulated 3:2,16,23 stipulation 1:16 3:1 story 33:14 straighten 27:1 stuff 21:10 28:5 sued 6:9,11 Suite 2:4,9 Summers 19:7 26:4 28:7 SUNFLOWER 1:8 43:16 super 8:21 superior 18:13 supervise 8:6,16 9:2 supervisor 7:22 9:8,12 22:11,18 supposedly 14:22 sure 8:8,9,11,12 13:22 14:5 18:3 23:15 29:14 30:6 33:4,12 surgery 11:20 12:2 surprised 13:5,13 swap 27:12 switched 21:9,22 sworn 4:7 43:9	39:13 40:12 testified 4:8 26:15 29:23 testifies 31:14 their 8:8,10,14 9:4 22:17 32:14 thereof 44:8 thing 38:11 things 27:11 29:13 think 12:13 13:20 17:18 18:3 19:4 23:17 24:5 25:14 28:23 30:10 38:2 40:11,18 41:2,20 thought 34:7 36:10 three 7:19 22:15 27:10 27:18,18 32:23 33:1 33:9,10 time 3:12,12 5:20,22 17:14,20 23:14,23 25:22 26:16,21,23 28:2 29:2 34:1,1 37:19 times 4:21 5:8 6:4 33:21 tired 38:14 tiring 38:16 Tobias 2:7 today 4:15 5:8 41:20 together 27:20 33:2,11 told 10:11,14 14:1,2,8 14:23 15:7,13,16 16:1,17 17:1,9 18:8,9 18:12 19:14,23 20:1 20:2 22:11 25:3 33:8 34:19 36:5 38:11 39:21 40:5 41:13 top 38:21 training 32:22 transcript 44:2 trial 3:19 Troy 20:14 Troy's 20:19,20 truck 19:5 26:5,6 27:5 27:14 29:20 30:1,3 32:8 35:2,12 40:10 41:3 trucks 8:18,22 30:2 32:23 33:1,9,10 41:4 true 44:2 truth 4:7,7,8 43:9,10 43:10 truthfully 40:15 try 13:16 29:8 30:20,23 turned 21:10 Twice 5:10 two 6:4 9:23 24:4 26:3 26:13 27:13,18,18 28:9 38:21	type 21:5,21,22 22:20 28:5 35:9 U Uh-huh 25:10 30:14 understand 13:11 understood 5:4 United 1:1 6:21 until 33:2 37:4 use 18:22 19:20 21:6,8 22:5 23:22 27:17 used 3:14,20 21:6,8,23 22:20 23:1 uses 37:10 using 21:2 usually 9:9 17:5 23:21 38:1 U.S 43:19 V Valley 29:3 Van 9:20 13:23 14:4 vehicle 30:10 39:21 vehicles 8:14 39:8 41:8 very 35:15 voice 32:1 vs 1:7 43:14 W wait 16:16 waived 3:19 4:3 44:5 waiving 3:22 want 23:15 24:10 27:23 29:21 33:7 34:11,17 34:18 wanted 27:3 28:13 34:10 35:3,5 wants 8:8 39:9 Washington 6:22 wasn't 18:15 24:8 27:2 Waste 1:9 5:13 43:17 way 13:20 32:23 33:6,9 37:13 weeks 12:12 Weldon 10:9,9,16 well 6:14 13:22 14:17 14:21 21:4 23:14 24:5,10 27:1 28:10 28:11 32:21 33:7 35:15 39:12,17 41:5 went 5:16 14:7 16:9,14 were 6:6 7:1,4,9,11 13:5 15:13 18:6 23:10 24:2 26:8,11 26:11,13 32:7 34:21 36:9,9,10 weren't 6:6 32:15 West 6:16 Wetumpka 10:22,23	11:3 we'll 33:3 we're 32:23 we've 33:4,8 41:16 while 27:12 38:17 whip 27:9 white 24:3,7,17,18 33:18 whole 4:7 26:21,23 43:10 Willie 19:7 26:3 28:7 witness 4:1,2,6 13:7 32:2 37:14 44:3 words 22:8 27:13 31:7 32:9 work 8:5,9 12:8 17:16 27:19 28:10,10,20 30:22 31:4 34:10,12 34:21,22 38:8,15,20 worked 9:13 24:14 25:23 26:16 28:8 working 22:1 38:18 works 10:10 wouldn't 12:10 32:19 write 22:5,18 wrong 22:17 Y yeah 13:11,23 17:2,11 24:4,21 year 38:2 years 5:17 7:2,6,19 11:21 12:7 yell 31:22 Yep 32:16 yesterday 20:9 29:23 y'all 27:19 29:8 36:10 # #151 44:13 I 11 1:20 43:23 12,600 27:8 13 20:8 21:1,2,9,16 22:2,3,22 23:3,8 14 10:11,19,21 11:1 20:8,17,18 21:8 22:4 22:19 151 1:17 3:7 43:5 1710 1:19 2:5 1819 2:9 2 2nd 44:9 20 6:16 7:6 2008 1:20 43:23 44:9 3	3:07-CV-846-WKW 1:7 43:22 307 6:16 35203 2:10 36051 6:17 36830 2:5 4 4 2:15 43 44:1 7 72 7:8 9 9/30/08 44:13 9:00 1:21 900 2:9 92 6:19 7:8 98 12:1 99 12:1
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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,)	
)	
Plaintiff,)	
)	
v.)	
)	
ADVANCED DISPOSAL SERVICES ALABAMA L.L.C., d/b/a SUNFLOWER WASTE L.L.C.,)	CIVIL ACTION NO. 3:07cv846-wkw
)	
Defendant.)	

DECLARATION OF DANNY FUTRAL

My name is Danny Futral. I am a Residential Site Manager for Advanced Disposal Services, d/b/a Sunflower Waste in Tallassee, Alabama. I was Robert Cannon's supervisor during his employment with ADS. I am aware of the lawsuit filed by Mr. Cannon, and this Declaration is based on my personal knowledge.

1. Before drivers start driving for ADS, they undergo training and must pass a driving test.

2. Mr. Cannon worked on the municipal contract for Phoenix City, Alabama. There were three routes on that contract, and Mr. Cannon was responsible for one route. Mr. Cannon had driven the route while working for Waste Management, so he knew the route. Mr. Cannon did not like driving

different routes. Mr. Cannon's route had the fewest collection sites of the three routes.

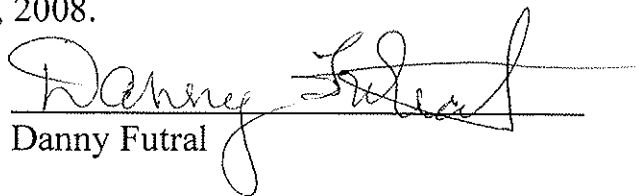
3. Willie Sommers (B) was Mr. Cannon's helper, but he could not drive the truck. As a result, Mr. Cannon did not have to rotate and assist loading the trucks.

4. After learning that Mr. Cannon failed his initial drug test his employment was not terminated. Instead, he was permitted to take a second drug test.

5. Part of my job duties require that I follow the trucks to ensure that the drivers are driving safely and in compliance with all traffic laws. I followed Mr. Cannon's truck no more than any other trucks.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of July, 2008.



Danny Futral

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL ACTION NO.
ADVANCED DISPOSAL)	3:07cv846-wkw
SERVICES ALABAMA L.L.C.,)	
d/b/a SUNFLOWER WASTE)	
L.L.C.,)	
)	
Defendant.)	

DECLARATION OF TOM DAVIS

My name is Tom Davis. I am Corporate Director of Safety for Advanced Disposal Services and have been for six years. I am aware of the lawsuit filed by Mr. Cannon, and this Declaration is based on my personal knowledge.

1. As Corporate Director of Safety, one of my responsibilities is overseeing the company's drug and alcohol testing program. ADS does not permit employees who have failed a drug test to work for it. The risk of penalties from the Department of Transportation is too great. I am not aware of any employees who failed a drug test and continued working for ADS.

2. I was not aware the Mr. Cannon had failed a drug test until I was notified by Glenn Guest that he had failed a drug test and was still listed as an active employee. I reviewed the results from Mr. Cannon's January 22, 2007 drug

test, and determined that he had tested positive for cocaine. I recognized that the last name was spelled "Rannon" instead of "Cannon" but the social security number on the results was Mr. Cannon's and the collection information was correct. Because Mr. Cannon had a positive drug test, I contacted Russell Davis and instructed him to terminate Mr. Cannon's employment for failing the drug test. I realized that Mr. Cannon had passed two drug tests after his failed test on January 22, 2007, but allowing Mr. Cannon to continue driving a garbage truck while having a positive drug test violated Department of Transportation regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26 day of June, 2008.

A handwritten signature in cursive script, appearing to read "Tom Davis", written over a horizontal line.

Tom Davis

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	3:07cv846-WKW
ADVANCED DISPOSAL SERVICES)	
ALABAMA LLC d/b/a SUNFLOWER)	
WASTE, LLC,)	
)	
Defendants.)	

DECLARATION OF PRODUCTION

I, Kathy Heatherly, am the records officer or custodian of records of the above-named organization responsible for the records requested by Defendant's Subpoena dated 4-17-08, which was served upon and directed to me and the organization in the above-captioned action.

○ To the best of my knowledge: 1) I have produced all records in my custody and control that are responsive to the specific requests included on the above referenced Subpoena; 2) The records produced with this affidavit are true and correct records, were kept in the regular course of the business activity of this organization; 3) It is and was at all relevant times thereto the regular practice of this organization to make or keep the records produced herewith; and 4) The records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.

○ I have not enclosed any records. I have made a diligent effort to obtain records within my custody and control that are responsive to the specific requests included on the above referenced Subpoena.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on 4-24-08, by Kathy Heatherly, Custodian of Records.

PATIENT INFORMATION
420882743

REPORT STATUS **Final**

Employer Solutions
CLIENT SERVICE 800.877.7484

ORDERING PHYSICIAN

SPECIMEN INFORMATION
SPECIMEN: 827733E
REQUISITION: 1742560
LAB REF NO:

Primary Id:
Sec Id: 51742560

CLIENT INFORMATION
60067398
HORACIO MARAFIOTI, MD

3895 JEFFCO BLVD
ARNOLD, MO 63010

COLLECTED: 01/22/2007 14:49
RECEIVED: 01/23/2007 07:28
REPORTED: 01/25/2007 17:09

Reason: PRE-EMPLOYMENT

REPORT FOR: IRA JANE HURST & ASSOC - 20260102
IRA JANE HURST
PO BOX 82113
LAFAYETTE, LA 70598

COLLECTOR'S NAME JANE S BELLEW
COLL SITE PH# 334-283-3477
COLLECTION SITE NAME
COLLECT/CITY,ST,ZIP
LOCATION XAJ03806W
*** POSITIVE/ABNORMAL REPORT ***

Tests Ordered: 35304N (NIDA 5 PANEL W/NIT.) OLDREQ (OLD REQ)

Employer/Donor Information

DONOR ID

PLEASE BE ADVISED THAT THE SPECIMEN ID NUMBER FOR THIS SPECIMEN HAS BEEN MODIFIED BY THE LABORATORY DUE TO THE RECEIPT OF A NON-QTN CCF. FOR REFERENCE, THE ORIGINAL SPECIMEN ID NUMBER IS REPORTED AS THE SECONDARY ID ON YOUR ELECTRONIC REPORT. PLEASE CONTACT THE NATIONAL CALL CENTER AT 1-800-877-7484 TO ORDER NEW CCFs.

Integrity Checks

Acceptable Range

OXIDIZING ADULTERANTS Negative

DOT/SAMHSA Panel

Initial Test Level	GC/MS Confirm Test Level
-----------------------	-----------------------------

AMPHETAMINES	Negative	1000 ng/mL	500 ng/mL
COCAINE METABOLITES	POSITIVE	300 ng/mL	150 ng/mL
MARIJUANA METABOLITES	Negative	50 ng/mL	15 ng/mL
OPIATES	Negative	2000 ng/mL	2000 ng/mL
PHENCYCLIDINE	Negative	25 ng/mL	25 ng/mL

Quantitative Results

COCAINE METABOLITE 399 ng/mL

>> REPORT CONTINUED ON NEXT PAGE <<

PATIENT INFORMATION
420882743

REPORT STATUS **Final**

Employer Solutions
CLIENT SERVICE 800.877.7484

ORDERING PHYSICIAN

SPECIMEN INFORMATION
SPECIMEN: 827733E
REQUISITION: 1742560
LAB REF NO:

Primary Id:
Sec Id: 51742560

CLIENT INFORMATION
60067398
HORACIO MARAFIOTI, MD

3895 JEFFCO BLVD
ARNOLD, MO 63010

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Reason: PRE-EMPLOYMENT

REPORT FOR: IRA JANE HURST & ASSOC - 20260102
IRA JANE HURST
PO BOX 82113
LAFAYETTE, LA 70598

CERTIFYING SCIENTIST: Lynne Royce

SPECIMEN RECEIVED AND PROCESSED IN THE LENEXA DHHS CERTIFIED LABORATORY.

LAB: Quest Diagnostics-Lenexa
10101 Renner Blvd
Lenexa KS 66219

>> END OF REPORT <<

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.
ADVANCED DISPOSAL SVCS-SUNFLOWER
DER: TOM DAVIS
9995 GATE PARKWAY NORTH
JACKSONVILLE FL 32246
PH 904-485-7800 FAX 904-483-3653

B. MRO Name, Address, Phone and Fax No.
HORACIO MARAFIOTI - EMPLOYEE SCREE
P. O. BOX 82113
221 SOUTHPARK, BLDG. B
LAFAYETTE LA 70598
Ph 337-331-1515
Fy 337-789-1131

C. Donor SSN or Employee I.D. No. _____

D. Reason for Test: ☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident
☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☒ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:
TALLASSEE FAMILY CARE
116 HERREN HILL RD
TALLASSEE AL 36878

Collector Phone No. 334-283-4777
Collector Fax No. 334-283-4162

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark _____

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: NONE

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

Collector's Name (PRINT First, MI, Last) JANE S BELLER
Date of Collection 01-22-07 Time of Collection 02:49 ☐ AM ☒ PM
Signature of Collector [Signature]
SPECIMEN BOTTLE(S) RELEASED TO: DHC COURTEN
Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB

☒ Primary Specimen Bottle Seal Intact ☐ No, Enter Remark Below

Signature of Accessioner _____
(PRINT) Accessioner's Name (First, MI, Last) _____
Date (Mo./Day/Yr.) _____

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

Signature of Donor [Signature] (PRINT) Donor's Name (First, MI, Last) ROBERT PARKER
Date (Mo./Day/Yr.) 01-22-07
Daytime Phone No. _____ Evening Phone No. _____
Date of Birth _____ Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you chose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). - DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS: _____

Signature of Medical Review Officer _____ (PRINT) Medical Review Officer's Name (First, MI, Last) _____
Date (Mo./Day/Yr.) _____

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

Signature of Medical Review Officer _____ (PRINT) Medical Review Officer's Name (First, MI, Last) _____
Date (Mo./Day/Yr.) _____

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

Acct# 09VVT

Loc Code: XA1038-09VVT

51742560

827733E

Quest Diagnostics
10101 Renner Blvd
Lenexa, KS 66219

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

ADVANCED DISPOSAL SVCS.-SUNFLOWER
DER: TOM DAVIS
9995 GATE PARKWAY NORTH
JACKSONVILLE FL 32246
PH 904-493-7000 FAX 904-493-3053

B. MRO Name, Address

HORACIO MARAFIOTI - EMPLOYEE SCREE Ph 337-637-1616
P. O. BOX 82113 Fx 337-769-1134
221 SOUTHPARK, BLDG. B
LAFAYETTE LA 70598

C. Donor SSN or Employee I.D. No.

D. Reason for Test:

☒ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post-Accident
☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed:

☒ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

TALLASSEE FAMILY CARE
115 HERREN HILL RD
TALLASSEE AL 36078

Collector Phone No. 334-283-3477

Collector Fax No. 334-283-4162

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☒ Yes ☐ No, Enter Remark _____

Specimen Collection

☒ Split ☐ Single ☐ None Provided (Enter Remark) _____ ☐ Observed (Enter Remark) _____

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS NONE

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

Collector's Name (PRINT First, MI, Last)

JANE S BELLER

Date of Collection

01-22-07
MO DAY YR

Time of Collection

10:49
HR MIN☐ AM ☒ PM

Signature of Collector

SPECIMEN BOTTLE(S) RELEASED TO:

DHC Counter

Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB

X Stacey Jurgensmeyer
Baird to Internal Chain of Custody

Signature of Accessioner

(PRINT) Accessioner's Name (First, MI, Last)

JAN 23 2007

Date (Mo/Day/Yr)

Primary Specimen Bottle Seal Intact

☒ Yes ☐ No, Enter Remark Below _____

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5a: PRIMARY SPECIMEN TEST RESULTS - COMPLETED BY PRIMARY LABORATORY

☐ NEGATIVE☐ DILUTE☐ REJECTED FOR TESTING☒ POSITIVE for:☐ MARIJUANA METABOLITE☐ CODEINE☐ AMPHETAMINE☐ ADULTERATED☒ COCAINE METABOLITE☐ MORPHINE☐ METHAMPHETAMINE☐ SUBSTITUTED☐ PCP☐ 6-ACETYL MORPHINE☐ INVALID RESULT

REMARKS

COCAINE METABOLITE 399 NG/ML

TEST LAB (If different from above)

I certify that the specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

X LYNNE ROYCE
Signature of Certifying Scientist

(PRINT) Certifying Scientist's Name (First, MI, Last)

JAN 23 2007
Date (Mo/Day/Yr)

STEP 5b: SPLIT SPECIMEN TEST RESULTS - (IF TESTED) COMPLETED BY SECONDARY LABORATORY

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

I certify that the split specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

Laboratory Name

Laboratory Address

Signature of Certifying Scientist

(PRINT) Certifying Scientist's Name (First, MI, Last)

Date (Mo/Day/Yr)

Peel on an upward angle across form.

Do not peel directly across form.

COPY 1 - LABORATORY COPY

PRESS HARD YOU ARE MAKING MULTIPLE COPIES

OMB No. 0500-0158

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ROBERT CANNON,

Plaintiff,

V.

**ADVANCED DISPOSAL
SERVICES ALABAMA L.L.C.,
d/b/a SUNFLOWER WASTE
L.L.C.,**

Defendant.

CIVIL ACTION NO.
3:07cv846-wkw

DEFENDANT’S BRIEF IN SUPPORT OF
ITS MOTION FOR SUMMARY JUDGMENT

Plaintiff Robert Cannon (“plaintiff”) filed this lawsuit against defendant Advanced Disposal Services Alabama L.L.C., d/b/a Sunflower Waste, (“ADS” or “defendant”), alleging that he was discriminated against because of his race in violation of Title VII of the Civil Rights Act and 42 U.S.C. § 1981. Plaintiff further makes allegations of fraud and slander against defendant. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, defendant has moved this Court for summary judgment on all claims asserted by plaintiff. There are no material facts in dispute, and defendant is entitled to judgment as a matter of law.

The essential facts are as follows: plaintiff accepted a job with ADS and was required to take a pre-employment drug test. Plaintiff failed the drug test, and

ADS terminated his employment. Then, pursuant to DOT regulations, ADS informed a prospective employer that plaintiff's employment had ended for his violation of the drug and alcohol policy.

I. SUMMARY JUDGMENT STANDARD

The legal standard for summary judgment is well settled and well known to the Court. Summary judgment is appropriate if this Court finds that there exists no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(c). Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); Turnes v. AmSouth Bank, N.A., 36 F.3d 1057, 1061 (11th Cir. 1994).

II. STATEMENT OF FACTS¹

A. Company Background

ADS provides waste management services throughout the Southeast, including Alabama. (Guest Depo. p. 6, lines 4-21, p. 14, lines 3-8). ADS offers residential and commercial service, and ADS operates landfills to dispose of the garbage collected. (Guest Dec. ¶ 1). Essentially, ADS picks up garbage and disposes of the garbage in landfills. (Beasley Depo. p. 14, lines 21-23, p. 15, lines 1-4) In Alabama, ADS does business as Sunflower Waste, but the employees are ADS employees. (Guest Depo. p. 6, lines 4-21).

¹ For purposes of this Motion and supporting Brief only, defendant accepts plaintiff's version of the facts.

Plaintiff worked in ADS' Tallassee facility as a residential driver driving a garbage truck. (Guest Dec. ¶ 1). Van Forester (W) was the District Manager over the entire operation in the district, which included Tallapoosa, Macon, Autauga, Montgomery, and Elmore counties. (Guest Depo. p. 31, lines 11-14, p. 32, lines 14-20). Russell Davis (W) was the Operations Manager, and Danny Futral (W) was the Residential Site Manager. (Beasley Depo. p. 21, lines 4-6; Futral Depo. p. 7, lines 20-22). Mr. Davis was responsible for all the drivers in the district, both residential and commercial. (Beasley Depo. p. 21, lines 20-23, p. 22, lines 1-5). Mr. Futral was responsible for residential drivers and helpers in Tallassee and was plaintiff's direct supervisor. (Futral Depo. p. 8, lines 1-23). Mr. Futral reported to Russell Davis during plaintiff's employment. (Futral Depo. p. 9, lines 12-16).

In late 2006, ADS acquired a municipal contract for Phoenix City, Alabama on which plaintiff had worked for Waste Management. (Guest Dec. ¶ 2). Therefore, ADS sought Waste Management drivers, such as plaintiff, who knew the routes on the Phoenix City contract. (Guest Dec. ¶ 2).

B. ADS' EEO POLICY

ADS is an Equal Employment Opportunity employer that prohibits discrimination on any basis protected by the law. (Guest Depo. p. 52, lines 2-11 & Exh. 1). Specifically, ADS prohibits discrimination on the basis of "race, color, religion, national origin, sex, marital status, status as a disabled veteran or veteran

of the Vietnam era, age, or disability.” (Guest Depo. p. 52, lines 2-11 & Exh. 1). Defendant’s EEO policy is included in its Employee Handbook, which all employees receive upon being hired. (Guest. Depo. p. 52, lines 14-16).

C. ADS’ Drug And Alcohol Policy

ADS’ Drug Free Workplace policy, which is in the Employee Handbook, provides in part as follows:

All applicants considered final candidates for a position may be tested for the presence of drugs as part of the application process. Any applicant refusing to submit to a pre-employment drug test will be ineligible for hire. If an applicant’s test is confirmed positive, the applicant will not be considered for employment at that time and will be informed that he or she has failed to meet employment standards.

. . . .

In the case of a violation of the Company policy, including a positive drug or alcohol test result, you will be subject to discipline up to and including discharge.

(Pl. Depo. p. 66, lines 13-23 & Exh. 8). Once a specimen is collected in accordance with DOT regulations, it is sent to an independent laboratory for testing. (Guest Depo. p. 19, lines 16-23). While plaintiff was employed with defendant, St. Louis MRO, Inc. was the independent lab used for testing. (Guest Depo. p. 20, lines 15-20).

D. PLAINTIFF’S EMPLOYMENT HISTORY

Plaintiff applied for a job as a driver with defendant on January 22, 2007 and was hired as a driver. (Pl. Depo. Pl. Depo. p. 63, lines 21-23, p. 64, lines 1-10, p.

65, lines 18-22 & Exh. 6). Plaintiff acknowledged receiving the Employee Handbook on January 22, 2007. (Pl. Depo. p. 65, lines 21-23, p. 66, lines 1-11 & Exh. 7).

As a driver, plaintiff operated one of three trucks that were responsible for three collection routes. (Futal Dec. ¶ 2). The drivers for each route started at the same time each morning, and, if one driver finished his route earlier than the others, he helped on another route. (Futal Depo. p. 32, lines 20-23, p. 33, lines 1-14). Each driver had a helper to assist loading the garbage onto the trucks. (Pl. Depo. p. 75, lines 10-15). Preferably, the helper could also drive so that the driver and helper could switch out when the helper got tired. (Futal Depo. p. 27, lines 13-23, p. 28, lines 1-11). In total, there were five drivers, four blacks and one white, and two helpers, both black. (Futal Depo. p. 23, lines 13-19, p. 11-14). Willie Sommers (B) was plaintiff's helper, but he could not drive the truck. (Pl. Depo. p. 75, lines 16-17; Futal Depo. p. 26, lines 2-7). As a result, plaintiff did not have to rotate and assist loading the truck. (Futal Dec. ¶ 3). Coke Conway was the only white driver, and he also worked as a helper. (Futal Depo. p. 24, lines 18-21, p. 27, lines 20-23). Mr. Conway and Harvey Stanford (B) operated a truck together, with both of them driving and helping. (Futal Depo. p. 28, lines 12-23).

Plaintiff received no discipline and had no decreases in pay while working for ADS. (Pl. Depo. p. 88, lines 10-12, p. 89, lines 3-5).

E. PLAINTIFF'S DRUG TESTS

Drivers, like plaintiff, who had worked for Waste Management, which had a DOT alcohol and drug testing program, were allowed to begin driving for ADS before ADS received the pre-employment drug test results.² (Guest Dec. ¶ 2).

1. Test 1

Plaintiff signed an Alcohol and/or Drug Test Notification on January 22, 2007, indicating that he would be taking a drug test that would be administered in compliance with the Federal Motor Carrier Safety Regulations on January 22, 2007 at 2:00 p.m. (Pl. Depo. p. 96, lines 1-8 & Exh. 15). On January 22, 2007 at 2:49 p.m., plaintiff provided a urine sample to Jane Bellew as part of his pre-employment drug test. (Pl. Depo. p. 76, lines 6-12, p. 77, lines 12-13). Plaintiff signed the Collection Form on January 22, 2007, which accurately reflected his date of birth and social security number. (Pl. Depo. p. 26, lines 1-2, p. 76, lines 18-23 & Exh. 9). The specimen number on the Collection Form was 51742560. (Pl. Depo. p. 76, lines 6-12 & Exh. 9).

² While plaintiff denies failing a drug test with Waste Management, his personnel file with Waste Management contains Lab Test Results showing a failed drug test for cocaine on December 28, 2006. (Pl. Depo. p. 8, lines 2-11 & Exh. 11). When plaintiff started working for ADS, ADS had no knowledge of the failed drug test on file with Waste Management. (Guest Dec. ¶ 2).

On February 2, 2007, St. Louis MRO, Inc., the testing company, verified a positive result for cocaine on specimen number 51742560, plaintiff's specimen number. (Pl. Depo. p. 78, lines 6-21 & Exh. 10). The social security number on the test results matched plaintiff's social security number,³ the collection date and time on the test results matched the collection date and time from the Collection Form, and the specimen collector matched the specimen collector from the Collection Form. (Pl. Depo. p. 80, lines 5-20 & Exhs. 9-10). However, instead of spelling plaintiff's last name Cannon, the results indicated a last name of "Rannon." (Pl. Depo. p. 80, lines 15-16 & Exh. 10).⁴

The results indicated that St. Louis MRO, Inc. was unable to contact plaintiff about the failed test. (Pl. Depo. p. 80, lines 15-16 & Exh. 10).

2. Tests 2 & 3

When Mr. Futral learned of plaintiff's failed drug, he did not terminate plaintiff's employment. (Futral Dec. ¶ 4). Instead, Mr. Futral told plaintiff that he failed the initial test and instructed him to take a second test. (Pl. Depo. p. 84, lines 13-23). Plaintiff passed a second drug test through ADS on February 12, 2007. (Pl. Depo. p. 83, lines 5-22 & Exh. 11; Futral Depo. p. 14, lines 1-7).

³ Defendant has redacted plaintiff's social security number on his drug test pursuant to the Middle District's privacy rules. Should the Court wish to review an unredacted copy, defendant will make one available.

⁴ Plaintiff thinks the results are incorrect because the results show "Rannon" instead of "Cannon" and because it was not signed by a medical review officer. (Pl. Depo. p. 82, lines 1-5). The official records certifying results from St. Louis MRO, Inc. show a certifying scientist's name and signature. (Subpoenaed Records from St. Louis MRO, Inc.).

Additionally, plaintiff submitted a negative drug test from Dr. Klinner dated February 17, 2007. (Pl. Depo. p. 85, lines 5-18 & Exh. 12).

F. PLAINTIFF'S DISCHARGE

In late February or early March 2007, Glenn Guest (W), Director, Corporate Human Resources, was doing research on positive drug tests within the company. (Guest. Depo. p. 41, lines 7-20; Guest Dec. ¶ 3). Mr. Guest was reviewing a list of employees with defendant who had tested positive for drugs or alcohol. (Guest Depo. p. 41, lines 14-23). Mr. Guest was ensuring that all employees who had failed a drug test had been discharged, and he noticed that plaintiff had a failed drug test but had not been discharged. (Guest Depo. p. 41, lines 21-23, p. 42, lines 1-5). No other employees who had failed a drug test were still working for defendant. (Guest Depo. p. 44, lines 19-22). Therefore, Mr. Guest contacted Mr. Tom Davis (B), Director of Safety, and informed him that there was an active employee who had tested positive for drugs. (Guest Depo. p. 42, lines 1-5; Davis Dec. ¶ 3). Tom Davis then reviewed the results for plaintiff's January 22, 2007 drug test, and confirmed that the social security number on the sample and result matched. (Davis Dec. ¶ 2). Therefore, Tom Davis contacted Russell Davis and instructed him to terminate plaintiff's employment for the failed drug test. (Davis

Dec. ¶ 2).⁵

Then, Russell Davis told Mr. Futral that he needed to terminate plaintiff's employment because he was positive on the first drug test. (Futral Depo. p. 12, lines 18-23, p. 15, lines 15-19). As such, Mr. Futral terminated plaintiff's employment on March 9, 2007 for failing his drug test. (Pl. Depo. p. 86, lines 13-23, p. 87, lines 1-12 & Exhs. 13-14; Futral Depo. p. 18, lines 8-19).

William Perry, Jr. (B) replaced plaintiff.⁶ (Guest Dec. ¶ 4& Exh. 1).

G. INQUIRY FROM ANN DORA'S

After his discharge from ADS, plaintiff applied for a job with Ann Dora's Custom Wrought Iron as a driver. (Pl. Depo. p. 105, lines 13-19 & Exh. 19). Ann Dora's submitted a Previous Employer Information Request form to defendant, with a release from plaintiff permitting ADS to respond to inquiries about his employment with ADS. (Pl. Depo. p. 105, lines 13-19 & Exh. 19; Guest Depo. p. 66, lines 10-23). As Office Manager, Sherry Beasley was responsible for handling such inquiries on behalf of ADS. (Beasley Depo. p. 8, lines 1-3, 18-23). Therefore, Ms. Beasley reviewed the Final Clearance for Terminating Employee and the Employee Disciplinary Report, and Ms. Beasley spoke with Russell Davis regarding plaintiff's discharge. (Beasley Depo. p. 39, lines 10-23, p. 40, lines 1-

⁵ Tom Davis was not aware of plaintiff's failed drug test until Glenn Guest brought it to his attention. (Davis Dec. ¶ 2).

⁶ Plaintiff claims that Coke Conway (W) replaced him as a driver; however, plaintiff's belief is based upon an observation by himself and his cousin that Mr. Conway was driving a truck. (Pl. Depo. p. 73, lines 1-6).

18, p. 43, lines 4-19). After investigating why plaintiff's employment ended, Ms. Beasley completed the request and indicated that plaintiff tested positive for a drug test and that he was terminated for violation of the drug and alcohol policy. (Pl. Depo. p. 105, lines 13-19 & Exh. 19;; p. 39, lines 1-19, p. 45, lines 5-11).

H. PLAINTIFF'S EVIDENCE

Plaintiff claims that he and Danny Futral did not see "eye to eye" on several things during his employment. (Pl. Depo. p. 68, lines 14-22). Plaintiff claims he was the fastest driver and got done before everybody else.⁷ (Pl. Depo. p. 69, lines 10-12). As such, plaintiff alleges that he had to go out on everybody else's route two to three hours a week while the other drivers were drinking coffee and smoking cigarettes.⁸ (Pl. Depo. p. 69, lines 10-17). Plaintiff alleges that he complained to Mr. Futral about doing the other driver's jobs. (Pl. Depo. p. 69, lines 18-23). Specifically, plaintiff complained to Mr. Futral about Reggie (B) not doing his job. (Futral Depo. p. 33, lines 7-19). When plaintiff complained to Mr. Futral about doing others' jobs, plaintiff asserts that Mr. Futral would cuss and raise his voice.⁹ (Pl. Depo. p. 69, lines 18-23). At no time did plaintiff complain that he thought he was not getting help because of his race. (Pl. Depo. p. 74, lines

⁷ Plaintiff was picking up less trash than the other drivers. (Futral Depo. p. 34, lines 7-14).

⁸ Plaintiff wanted everyone to do their own route and go home instead of helping each other. (Pl. Depo. p. 76, lines 1-10).

⁹ Mr. Futral denies cussing or yelling at plaintiff. (Futral Depo. p. 31, lines 10-11, 22-23).

14-15).¹⁰

Additionally, plaintiff alleges that Mr. Futral would tell him that he had a man on the back of the truck waiting to drive and that he was “going to get Coke off the back of that truck if it’s the last thing I do.”¹¹ (Pl. Depo. p. 85, lines 1-4, p. 101, lines 4-13). However, Mr. Conway (W) was hired as a driver at the same time as plaintiff and worked as a driver throughout plaintiff’s employment. (Guest Dec. ¶ 5).

On Wednesday, March 7, 2007, plaintiff claims that he had a heated argument with Mr. Futral and that, after the argument, Mr. Futral followed his truck the rest of the day on Wednesday and all day Thursday and Friday.¹² (Pl. Depo. p. 86, lines 9-23). Plaintiff alleges that Mr. Futral told him “I’m going to make sure you don’t do nothing out of the ordinary because I’m tired of you smart mouth” when he asked why he was being followed. (Pl. Depo. p. 88, lines 1-9).

At no time while he worked for defendant did anybody say anything to plaintiff about his race or color. (Pl. Depo. p. 74, lines 18-21). Further, plaintiff’s own testimony shows that he did not believe his discharge was because of his race because he testified as follows:

¹⁰ Additionally, plaintiff also alleges that he complained to Mr. Davis about Mr. Futral but that Mr. Davis just indicated that Mr. Futral was a military veteran. (Pl. Depo. p. 70, lines 6-14).

¹¹ Mr. Futral denies making any such statement. (Futral Depo. p. 32, lines 7-10).

¹² Part of his job duties require that Mr. Futral follow the trucks to ensure that the drivers are driving safely and in compliance with all traffic laws. (Futral Dec. ¶ 4). Mr. Futral followed plaintiff’s truck no more than any other trucks. (Futral Dec. ¶ 4).

I guess he just was tired of me complaining so he felt like that's a way to get rid of me, just say dirty urine and go ahead like that. I feel like that that's the reason that he lied on me with the dirty urine, because my urine was not dirty and I know that from neither drug screen. Neither one of them. My urine wasn't dirty at all.

(Pl. Depo. p. 104, lines 12-19).

III. LEGAL ARGUMENT

In his Complaint, plaintiff claims that ADS terminated his employment because of his race in violation of Title VII and 42 U.S.C. § 1981, that ADS slandered him, and that ADS committed fraud. There are no genuine issues of material fact related to plaintiff's claims, and they are due to be dismissed.

A. ADS DID NOT DISCRIMINATE AGAINST PLAINTIFF BECAUSE OF HIS RACE

1. ADS Did Not Terminate Plaintiff's Employment Because Of His Race

ADS did not terminate plaintiff's employment because of his race; instead, plaintiff's employment was terminated because he tested positive for cocaine on his pre-employment drug test.¹³ A plaintiff can establish his individual disparate treatment claim through either direct or circumstantial evidence of discrimination. "Only the most blatant remarks, whose intent could be nothing other than discrimination on the basis of [race], ... constitute direct evidence of discrimination." Earley v. Champion International Corp., 907 F. 2d 1077, 1081

¹³ The order and allocation of proof for claims under 42 U.S.C. § 1981 is the same as for claims under Title VII. Rice-Lamar v. City of Fort Lauderdale, 232 F.3d 836, 843 (11th Cir. 2000).

(11th Cir. 1990). Moreover, such remarks must be made by the decisionmaker and must be related to the adverse employment decision at issue. Minton v. American Bankers Ins. Group, 2003 WL 21303330 (11th Cir. Feb. 6, 2003). Here, there is no direct evidence of discrimination.

Because there is no direct evidence of discrimination, plaintiff must demonstrate that (1) he is in a protected class; (2) he was qualified to perform his job; (3) his employment was terminated; and (4) some evidence creating an inference of race discrimination. Knight v. Baptist Hosp. of Miami, Inc., 330 F.3d 1313, 1316 (11th Cir. 2003). A common method of establishing the fourth prong of the *prima facie* case is evidence that the employer replaced the plaintiff with someone outside of the protected class. Walker v. Nationsbank of Florida, 53 F.3d 1548, 1556 (11th Cir. 1995). Alternatively, a plaintiff can demonstrate that a similarly-situated employee outside of the protected class was treated more favorably. Knight, 330 F.3d at 1316.

If a plaintiff establishes his *prima facie* case, then the employer must articulate a legitimate, nondiscriminatory reason for its decision or actions. Lee v. GTE Florida, Inc., 226 F.3d 1249, 1253 (11th Cir. 2000). To ultimately prevail, the plaintiff must then show that the employer's articulated reason was false and that the real reason was the plaintiff's race. Id

Plaintiff is a member of a protected class and was discharged. However, plaintiff cannot establish that he was qualified for the job or the last element of his *prima facie* case – evidence creating an inference of race discrimination.

First, 49 C.F.R. § 382.501(b) provides as follows:

No employer shall permit any driver to perform safety sensitive functions; including driving a commercial motor vehicle, if the employer has determined that the driver violated this section.

By failing a drug test, plaintiff violated the Federal Motor Carrier Safety Regulations, and ADS could not permit plaintiff to continue driving. Because plaintiff could not legally drive the dump truck for ADS, he was not qualified to work as a dump truck driver for ADS.

Second, plaintiff cannot show an inference of discrimination. First, plaintiff claims that Coke Conway (W) replaced him; however, Mr. Conway was hired as a driver on January 22, 2007, and continued to work as a driver after plaintiff's discharge. (Guest Dec. ¶ 5). As such, despite plaintiff's assertions, Mr. Conway did not replace plaintiff. Instead, ADS hired William Perry Jr. (B) as a driver on April 2, 2007 to replace plaintiff. (Guest Dec. ¶ 4 & Exh. 1). Additionally, there is no evidence of any white employees who failed a drug test and continued working for ADS. In fact, Tom Davis and Glenn Guest have terminated all ADS drivers who have failed drug tests. (Davis Dec. ¶ 1; Guest Dec. ¶ 3.) Plaintiff attempts to create a comparator in Coke Conway; however, his attempt fails. Conway never

failed a drug test while working for ADS. (Guest Dec. ¶ 5). Because plaintiff was not replaced by someone outside his protected class and because plaintiff cannot show he was treated differently than similarly situated white employees, he cannot show an inference of discrimination. Therefore, plaintiff cannot prove a *prima facie* case of discrimination, and his claim is due to be dismissed.

Even assuming, arguendo, that plaintiff could prove a *prima facie* case of discrimination, ADS had a legitimate, nondiscriminatory reason for his discharge: **a failed drug test**. Further, there is absolutely no evidence of pretext. Plaintiff claims that the test results were incorrect because his name was spelled “Rannon” instead of “Cannon” and because a physician did not sign the results. (Pl. Depo. p. 82, lines 1-5). Even assuming that ADS was mistaken in its belief that plaintiff failed the drug test, it had a good faith belief that he had done so, especially given the fact that the evidence is undisputed that the plaintiff’s social security number was on the results, the specimen number from the sample matched the results, the collection date and time from the sample matched the results, and the collector of the specimen matched the collector on the results. (Pl. Depo. p. 80, lines 5-20 & Exhs. 9-10). “The law is clear that, even if a Title VII claimant did not in fact commit the violation with which he is charged, an employer successfully rebuts any *prima facie* case of disparate treatment by showing that it honestly believed the employee committed the violation.” Jones v. Gerwens, 874 F.2d 1534, 1540 (11th

Cir. 1989) (citations omitted). Additionally, an employer who fires an employee under the mistaken but honest impression that an employee violated a work rule is not evidence of pretext. See EEOC v. Total System Services, Inc. 221 F.3d 1171, 1176 (11th Cir. 2000); Foster v. Mid State Land & Timber Co., Inc., 2007 WL 3287345, *14 (M.D. Ala. Nov. 7, 2007) (explaining that the proper inquiry is not whether the decision was correct but whether “defendant reasonably believed plaintiff committed the infractions that led to his termination.”).

In addition to having a good faith belief that plaintiff failed the drug test, plaintiff admits there were no race based comments. (Pl. Depo. p. 74, lines 18-21). Further, Tom Davis instructed Russell Davis to terminate plaintiff’s employment, and Tom Davis is black. (Davis Dec. ¶ 2). Additionally, Glenn Guest noticed that plaintiff had failed a drug test, and he had never met plaintiff. (Guest Depo. p. 12, lines 21-23, p. 13, lines 1-3). Most telling is plaintiff’s own testimony that he believed Mr. Futral, who made no race based comments, “was tired of me complaining so he felt like that’s a way to get rid of me.” (Pl. Depo. p. 104, lines 12-19). There is absolutely no evidence that plaintiff’s race played any role in the decision to terminate his employment, and his claim is due to be dismissed.

2. ADS Did Not Discriminate Against Plaintiff Because Of His Race In The Terms And Conditions Of His Employment

Other than his discharge, which is addressed above, plaintiff had no decrease in pay, no demotions, no changes in job duties, no disciplines, and no other change

to any term, condition, or privilege of employment. Nonetheless, in his complaint, plaintiff alleges that ADS discriminated against him in the terms and conditions of his employment. Because there is no direct evidence of discrimination, for plaintiff to prove a *prima facie* case of discrimination in the terms and conditions of his employment, he must show (1) he is a member of a protected class; (2) he was subjected to an adverse employment action; (3) his employer treated similarly situated employees who were not members of his protected class more favorably; and (4) he was qualified for the job or job benefit at issue. Mathis v. Leggett & Platt, 2008 WL 124512, *2 (11th Cir. Jan. 15, 2008). As previously explained, plaintiff is not qualified to perform his job. Further, plaintiff suffered no adverse employment action, and similarly situated white employees were not treated differently than him.

To prove an adverse employment action, plaintiff must have suffered a material or substantial change to the terms, conditions, or privileges of his employment. See Davis v. Town of Lake Park, 245 F.3d 1232, 1239 (11th Cir. 2001). The employee's subjective view of the significance and adversity of the employer's action is not controlling; instead, "the employment action must be materially adverse as viewed by a reasonable person in the circumstances." Davis, 245 F.3d at 1239. Further, courts have been reluctant to find that changes in job duties amount to adverse employment actions unless there is a tangible harm, such

as a reduction in salary. See Givens v. Chambers, 548 F. Supp. 2d 1259, 1271 (M.D. Ala. 2008) (explaining that loud verbal criticisms, excessive work, and excessive scrutiny amount to tribulations of the workplace and not adverse employment actions). At most, plaintiff assisted other drivers with their work assignments, was followed by Mr. Futral on three days, and had Mr. Futral curse at him, with no racial comments. None of these allegations constituted a change to any term, condition, or privilege of employment, and do not constitute adverse employment actions. Moreover, plaintiff has shown no white employees who were treated differently than him.

Even if plaintiff could prove a *prima facie* case of discrimination, ADS had legitimate, nondiscriminatory reason for its actions: (1) Mr. Futral wanted the drivers to assist each other so that they could finish together and (2) Mr. Futral had to follow all the drivers to ensure that they followed proper safety procedures. (Futral Depo. p. . 32, lines 20-23, p. 33, lines 1-14; Futral Dec. ¶ 5). Finally, there is no evidence of pretext. As such, any terms and conditions claim being made by plaintiff are due to be dismissed.

B. ADS DID NOT SLANDER PLAINTIFF

Plaintiff claims that ADS slandered him by informing Ann Dora's that his employment was terminated for violation of the drug and alcohol policy and that he failed a drug test. However, plaintiff's claim involves a written statement and

not a verbal statement, so it is more accurately defined as a libel claim and will be treated as such. Still, in Alabama, both slander and libel are considered a species of defamation and to establish a *prima facie* case of defamation, plaintiff must establish that (1) the defendant was at least negligent; (2) in publishing; (3) a false and defamatory statement; (4) concerning the plaintiff; and (5) which is either actionable without having to prove special harm (actionable per se) or actionable upon allegations and proof of special harm (actionable per quod). Ex parte Crawford Broadcasting, 904 So. 2d 221, 225 (Ala. 2004). Plaintiff's claim fails.

Truth is an absolute defense to a defamation case. S.B. v. Saint James School, 959 So. 2d 71, 100 (Ala. 2006). Plaintiff has failed to show any false statement. ADS informed Ann Dora's that plaintiff tested positive on a drug test, and a drug test matching plaintiff's social security number showed a positive result. Therefore, ADS' statement is true, and plaintiff has produced no substantive evidence to challenge the result. Additionally, ADS informed Ann Dora's that plaintiff was terminated for "violation of drug & alcohol" policy. Plaintiff was terminated for violating the drug and alcohol policy, so the information provided to Ann Dora's was correct. Because ADS made no false statements, plaintiff's claim should be dismissed.

Second, ADS' actions were privileged. In Smith v. Boyd Bros. Transportation, Inc., 406 F. Supp. 2d 1238, 1242 (M.D. Ala. 2005), plaintiff

alleged, among other things, that Boyd Bros. defamed him by informing an independent employment history company for commercial drivers that plaintiff had resigned/quit and was a no show. Plaintiff alleged that the statements were defamatory because he disputed the reason for his discharge. The Court determined that the statements to the independent employment history company were privileged and provided as follows:

Where a party makes a communication, and such communication is prompted by duty owed either to the public or to a third party, or the communication is one in which the party has an interest The duty under which the party is privileged to make the communication need not be one having the force of legal obligation, but it is sufficient if it is social or moral in its nature and defendant in good faith believes he is acting in pursuance thereof, although in fact he is mistaken.

406 F. Supp. 2d, 1238, 1247 (quoting Willis v. Demopolis Nursing Home, Inc., 336 So. 2d 1117, 1120 (Ala. 1976). Unlike Body Bros., ADS had a legal duty to provide Ann Dora's with the requested information. 49 C.F.R. § 40.25(b) requires that potential new employers, after obtaining consent, hiring an employee to perform safety sensitive duties must request of previous employers during the previous two years information regarding, among other things, verified positive drug tests. Then, 49 C.F.R. § 40.25(h) provides as follows:

If you are an employer from whom information is requested under paragraph (b) of this section, you must, after reviewing the employee's specific written consent, immediately release the requested information to the employer making the inquiry.

As such, pursuant to 49 C.F.R. § 40.25(b), Ann Dora's requested "Previous Employer Information" from ADS. Plaintiff released ADS to provide the information. Therefore, pursuant to 49 C.F.R. § 40.25(h), ADS released the requested information. For these reasons, ADS had a legal obligation to release the drug testing information.

Because the information released to Ann Dora's was privileged, plaintiff must show malice to succeed with his claim. Boyd Bros., 406 F. Supp. 2d 1238, 1247. To show malice, plaintiff must show that ADS made the representations with knowledge that they were false or with reckless disregard as to whether they were false. Id. As previously explained, ADS had a good faith belief that plaintiff failed his drug test. Further, prior to releasing the information, Ms. Beasley reviewed the discharge paperwork and spoke with Russell Davis, Operations Manager, about the separation. (Beasley Depo. p. 39, lines 10-23, p. 40, lines 1-18, p. 43, lines 4-19). Therefore, there is no evidence of malice, and plaintiff's claim is due to be dismissed.

Plaintiff cannot prove a *prima facie* case of defamation. As explained, Ms. Beasley was diligent in her efforts to substantiate the reason for plaintiff's discharge and had a duty to release the information, so there was no negligence in her providing the information to Ann Dora's. Second, as explained, there was no false statement. Finally, plaintiff has shown no damage as a result of the release of

the information, much less that he did not receive the job from Ann Dora's because of the information from ADS. Because plaintiff cannot prove a *prima facie* case of defamation, his claim is due to be dismissed.

For these reasons, plaintiff's slander claim is due to be dismissed.

C. ADS Did Not Defraud Plaintiff

Finally, plaintiff claims that ADS committed fraud by informing Ann Dora's that he failed a drug test and by telling him that ADS would properly drug test him. However, the evidence is clear that ADS had a good faith belief that plaintiff failed the drug test and that no misstatements were made. Therefore, plaintiff's claim is due to be dismissed.

Under Alabama law, to prove a *prima facie* case of fraudulent misrepresentation, plaintiff must show: (1) a false representation; (2) concerning a material existing fact; (3) reasonably relied upon by the plaintiff; and (4) damage as a proximate result. Desouza v. Lauderdale, 928 So. 2d 1035, 1042 (Ala. Civ. App. 2005). A promissory fraud claim involves a claim to perform a future act, and the following additional elements must be proven to show promissory fraud: (1) proof that at the time of the misrepresentation, the defendant had the intention not to perform the act promised and (2) proof that the defendant had an intent to deceive. S.B. v. Saint James School, 959 So. 2d 72, 101 (Ala. 2006).

1. ADS Did Not Defraud Plaintiff By Informing Ann Dora's Of His Drug Test Results And Discharge

Plaintiff alleges that ADS committed fraud by informing Ann Dora's that he failed a drug test and was discharged for violating the drug and alcohol policy. Plaintiff cannot prove a *prima facie* case of fraud because there was no false representation, no reliance, and no damage. As previously explained, plaintiff failed the drug test and was discharged pursuant to the drug and alcohol policy. Simply not liking the results of the drug test does not create a false misrepresentation.

Additionally, while plaintiff may maintain a claim for a misrepresentation to a third party, such a claim will support fraud allegations "only when there is sufficient evidence of an intent on the part of the speaker to communicate to the third party in such a way as to induce the plaintiff to act. Bush v. Teachers Insurance and Annuity Ass'c of America, 2006 WL 3075539, *3 (M.D. Ala. Oct. 30, 2006) (quoting Delta Health Group, Inc. v. Stafford, 887 So. 2d 887, 889 (Ala. 2004). Further, plaintiff must still show reliance upon the alleged misrepresentation. Ex parte DaimlerChrysler Corp., 952 So. 2d 1082, 1091 (Ala. 2006). There is absolutely no evidence that plaintiff relied on the information provided to Ann Dora's, much less that he took any action based upon the information provided to Ann Dora's.

Finally, plaintiff has shown no damage as a result of the information

provided to Ann Dora's. Plaintiff claims that he was not offered the job from Ann Dora's because of the information provided by ADS. However, there is no evidence to support plaintiff's claim. In fact, Ann Dora's failure to hire plaintiff could be attributable to his failed drug test from Waste Management or for some other reason and not any information from ADS.

For these reasons, plaintiff's fraud claim fails.

2. ADS Properly Drug Tested Plaintiff

Plaintiff alleges that ADS defrauded him by informing him that he would properly be drug tested. However, not agreeing with the test results does not create a claim for fraud. Because plaintiff's claim involves a future act, it is one for promissory fraud, and plaintiff cannot prove a claim of promissory fraud.

First, plaintiff has not shown a false statement because ADS properly drug tested him in accordance with its drug policy. Second, there is no evidence that ADS had an intent not to properly drug test plaintiff when he was hired. Plaintiff admits that he knows of no employees who were not given pre-employment drug testing. (Pl. Depo. p. 108, lines 20-23, p. 109, lines 1-3). Plaintiff has no complaints about defendant requiring him to take a urine test on January 22, 2007. (Pl. Depo. p. 77, lines 6-11). Plaintiff's only concern is that he does not agree with the result. However, to support his claim, plaintiff must show that ADS had no intention of properly testing him when he was hired and that ADS fixed the

results of plaintiff's drug tests to show a positive result. There is no evidence to support plaintiff's claim, and it is due to be dismissed.

IV. CONCLUSION

Plaintiff failed his pre-employment drug test with ADS. As such, ADS terminated plaintiff's employment. Then, pursuant to Department of Labor regulations, ADS informed a potential employer that plaintiff failed a drug test and was discharged pursuant to its drug and alcohol policy. Instead of accepting responsibility for his actions, plaintiff sued ADS. For the reasons discussed above, defendant Advanced Disposal Services Alabama L.L.C., d/b/a Sunflower Waste, respectfully requests that the Court grant its Motion for Summary Judgment and dismiss plaintiff's claims with prejudice.

Respectfully Submitted,

/s/ J. Tobias Dykes

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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